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United States

Vol 2307

Circuit Court of Appeals

For the Ninth Circuit.

*2308
see Vol
2307+2308*

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

vs.

J. G. BOSWELL COMPANY and CORCORAN
TELEPHONE EXCHANGE,

Respondents.

Transcript of Record

In Seven Volumes

VOLUME III

Pages 981 to 1450

FILED

SEP 15 1942

**PAUL P. O'BRIEN,
CLERK**

Upon Petition for Enforcement of An Order of the
National Labor Relations Board

No. 10148

United States
Circuit Court of Appeals
For the Ninth Circuit.

NATIONAL LABOR RELATIONS BOARD,
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Upon Petition for Enforcement of An Order of the
National Labor Relations Board

W. R. JOHNSTON

recalled to the stand by and on behalf of the National Labor Relations Board, having been previously sworn, was further examined and testified as follows: [258]

Direct Examination

Q. By Mr. Mouritsen: Mr. Johnston, since your lay-off of November 17th, 1938, have you had any other employment? A. No, sir.

Q. Have you received any money for work that you have done since that date? A. No, sir.

Q. If the National Labor Relations Board should order your re-instatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. Yes, sir.

Mr. Mouritsen: That is all.

Mr. Clark: No further questions.

(Witness excused.)

Mr. Mouritsen: Call O. L. Farr.

O. L. FARR

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

(Testimony of O. L. Farr.)

Direct Examination

- Q. By Mr. Mouritsen: What is your name?
A. O. L. Farr.
- Q. Where do you live?
A. 418 East Tenth Street, Hanford, California.
- Q. Have you ever been employed by the J. G. Boswell Company? [259] A. Yes, sir.
- Q. When were you first employed by that Company?
A. September, 1936.
- Q. What work did you first do for that Company?
A. Ginner.
- Q. At what rate of pay were you paid?
A. 45 cents an hour.
- Q. What hours did you work?
A. Twelve hours a day.
- Q. How long did you continue to work as a ginner for that Company?
A. Well, I worked as a ginner until in January of '38, I guess. I was transferred—
- Q. (Interrupting): Continue.
A. (Continuing): —into the oil mill.
- Q. And what work did you do in the oil mill?
A. I first filed saws.
- Q. Was there any change in your rate of pay or your hours of work at that time? A. No.
- Q. How long did you continue to do that type of work?
A. Some two or three months.
- Q. And what work did you next do?
A. As best I recall, I repaired some in the oil mill.

(Testimony of O. L. Farr.)

Q. Repaired what? [260]

A. The machinery.

Q. And how long did you do that?

A. Until the mill started in operation again.

Q. Can you fix the date of that, approximately?

A. No, I couldn't.

Q. I believe you stated that you started to file saws in January of 1938. Was that the year, 1938, or the year—

A. (Interrupting): '37.

Q. 1937? A. '37.

Q. And then after that, you—

A. (Interrupting): I repaired and run the linters, linterman. [261]

Q. And until what time did you run the linters?

A. I run the linters until July 19th, at the end of the '37 season.

Q. Yes. That was until July 19, '37?

A. Yes, sir.

Q. Then what did you do?

A. I quit and went to the San Joaquin Cotton Company at Bakersfield.

Q. And how long did you work there?

A. Four months.

Q. Then what did you do?

A. I came back to the Boswell Company on October 15th—November 15, 1937.

Q. And what work did you then do?

A. I ginned. I went back as ginner. I dried

(Testimony of O. L. Farr.)

some cotton and ginned at the time. At different times—I dried some cotton at different times and was hired as a ginner.

Q. What rate of pay did you receive?

A. 50 cents an hour.

Q. What hours did you work? A. 12 hours.

Q. That is, 12 hours a day?

A. Yes, 7 days a week.

Q. Now, how long did you work as a ginner since you came [262] back in November of 1937?

A. Until January, '38, 1938.

Q. And what work did you then do?

A. I went back as linterman in the oil mill.

Q. Any change in rate of pay or hours of work?

A. No, sir.

Q. How long did you continue to work as a linterman?

A. Until September 28, 1938, at the time the season of that year was completed of crushing seed.

Q. And then what did you do?

A. I asked for a vacation to go see my folks. My father was sick, and I asked Mr. Hammond for a vacation.

Q. Did he consent to your taking a vacation?

A. Yes.

Q. Did you take a vacation? A. Yes.

Q. How long were you gone?

A. About 15 or 18 days.

Q. Did you then return to the employ of the company? A. Yes, sir.

Q. On approximately what date?

(Testimony of O. L. Farr.)

A. About the 15th of October.

Q. And the year? A. Of '38.

Q. And what type of work did you do then? [263]

A. I ginned, as a ginner. Operated the gin.

Q. Any change in your rate of pay or hours of work? A. No.

Q. How long did you continue to do that work?

A. Until the 18th of November, 1938.

Q. Yes.

Now, during the time that you were employed by the J. G. Boswell Company did you ever have any conversations regarding the union with Gordon Hammond? A. I did.

Q. Do you recall any specific conversation that you had with Mr. Gordon Hammond?

A. Yes, in the latter part of August, 1938.

Q. Where did this conversation take place?

A. In the office of Mr. Hammond, the superintendent of the Boswell Company.

Q. Was anyone else there other than you and Mr. Hammond? A. That is all.

Q. Will you state what Mr. Hammond said to you and what you said to Mr. Hammond at that time?

A. Mr. Hammond asked me if I was a member of the union—and that he heard I was a member of the union and was carrying a receipt book on the job signing up members, and that I was active in the union.

Mr. Clark: And what was the last? [264]

(Testimony of O. L. Farr.)

The Witness: And that I was active in the union, in organizing a union.

And I said, "Mr. Hammond, I will answer the questions as you asked me. I am not a member of the union at this time and I have not carried any receipt book on the job and I haven't signed up nobody in the union."

And he said, "Well, you can hear most anything. I just wanted to know."

And he asked me if I was satisfied with my working conditions. And I told him I wasn't satisfied with the hours, 84 hours a week; that was more hours than I personally felt that a man ought to work. [265]

He said that he knew—he might have misunderstood those Mexicans in some ways, he knew they were ignorant of a Union, and a fellow could talk them into most anything. And I told him at that time I hadn't said anything to the Mexicans that worked in the mill about organization.

Q. By Mr. Mouritsen: Do you recall whether or not anything was said at that conference regarding the cooperation of the Company?

A. Yes. I told him that—Mr. Hammond—that we could get together. We didn't have to have a Union if the Company wanted to get together, that we and us fellows and he could figure out a better working condition. And he agreed with me that it could be done.

Q. When you say "he agreed with me," did he—

(Testimony of O. L. Farr.)

A. He stated that could be done.

Q. During the course of your employment with the Boswell Company, did you ever have any conversation with Joe Hammond regarding the Union?

A. Yes.

Q. When did that conversation take place?

A. About the last of September, 1938, or just before the mill shut down.

Q. Was anyone else present other than you and Mr. Joe Hammond?

A. No, that was all.

Q. Where did this conversation take place? [266]

A. In the lint room of the old mill.

Q. Who is Joe Hammond?

A. Well, he is the oil mill foreman.

Q. I believe you stated that he worked in the—that you worked as a linterman in the oil mill; is that correct?

A. Yes.

Q. Will you describe or tell us what connection Joe Hammond had with that work while you were so engaged?

A. He told me what to do.

Mr. Clark: Now—withdraw that, Mr. Examiner.

Q. By Mr. Mouritsen: Continue.

Mr. Clark: Did you get the answer? It was, "he told me what to do."

The Witness: Yes, sir, he told me what to do.

Q. By Mr. Mouritsen: Did he have any other connection with your work in the linter room other than telling you what to do?

A. That is all. Of a night—while I was working nights, when Joe got ready to go home in the evening,

(Testimony of O. L. Farr.)

he would tell me what to do that night, if there was anything that needed to be done. He would come in and tell me in the evening what to do.

Q. Now, returning to the conversation, will you state the conversation that you had with Mr. Joe Hammond?

Mr. Clark: Objected to, Mr. Examiner, on the ground it is [267] hearsay, incompetent, irrelevant and immaterial; not binding on any of these Respondents, particularly upon the Respondents Corcoran Telephone Exchange and Associated Farmers of Kings County, Inc., and not binding on the Respondent Boswell and Company for the reason that no authority has been shown from the Company to Mr. Joe Hammond to speak for it with relation to the matters under investigation in this hearing.

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: What was the question?

(The question referred to was read by the reporter, as set forth above.)

The Witness: Joe came and he asked me—he said, “What are you and Martin going to do when the mill shuts down?”

And I said, “I guess I will work in the gins as I always have.”

And he said, “I can’t use you any longer in the mill.”

And I said, “Well, since when?”

And he says, “From now on when the mill shuts down.”

(Testimony of O. L. Farr.)

And I said, "I always have worked."

And he said, "But you never belonged to a Union before this time."

Mr. Clark: May I have the date of this conversation again?

Trial Examiner Lindsay: Yes, you may.

The Witness: The latter part of September, 1938. [268]

Q. By Mr. Mouritsen: Now, did you ever have any conversation with Mr. Tom Hammond regarding the Union?

A. On November 17th, 1938, I did.

Q. Yes.

And who is Mr. Tom Hammond?

A. He is the foreman of the gin. [269]

Q. Now, you stated that you had——

Mr. Clark (Interrupting): He is what?

Mr. Mouritsen: Foreman of the gin.

Q. You stated that you had worked as a ginner for the company for several periods, is that correct?

A. That is right.

Q. Now, will you state what connection Mr. Tom Hammond had with your work as you worked as a ginner at the company?

A. He told me, give me orders how to gin the cotton, what cotton to gin, whatever might be needed, as a foreman would give a ginner.

Q. Did he ever tell you when you were to come to work or when you were to stop work?

A. Yes, he told me.

(Testimony of O. L. Farr.)

Q. On more than one occasion?

A. Oh, yes, all the time; if we made any change, he always told me.

Q. Now, where did this conversation with Mr. Tom Hammond take place?

A. In the cotton gin, No. 2, at the Boswell plant.

Q. Was anyone else present other than you and Mr. Tom Hammond?

A. No, not—Mr. Spear was in the gin, but wasn't very close to us at our conversation.

Q. Now, will you tell us what you said to Tom Hammond on [270] this occasion and what he said to you?

Mr. Clark: Objected to, may it please the Examiner, as hearsay and not binding on any of the respondents and in connection with the Boswell Company upon the further ground that no authority has been shown from the company to Mr. Hammond to speak for it with regard to the matters under investigation in this hearing.

Trial Examiner Lindsay: He may answer.

The Witness: About 1:00 o'clock on the 17th of November, 1938, Tom Hammond came to where I was feeding the overflow up in the gin, and he was very—seemed to be very mad, angry—

Mr. Clark (Interrupting): I move that that go out, may it please the Examiner, on the ground it is a conclusion of the witness, "He seemed to be very mad or angry." I take it the witness' testimony can only go to a description of objective conditions.

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: Just a moment: I believe that the witness has a right to describe the appearance of anyone——

Mr. Clark (Interrupting): Objectively, yes, Mr. Examiner, but that his conclusion of someone seeming to be very angry——

The Witness (Interrupting): He was very angry.

Mr. Clark: I move that go out.

Mr. Mouritsen: Mr. Farr, wait until the objection is ruled upon. [271]

Trial Examiner Lindsay: Tell us what you noticed.

The Witness: Well, he asked me in the meeting that we had held the night before, after we had—was we trying to take his job; from the statements that he had heard that we had made in the office before Mr. Gordon Hammond on that morning, that we was trying to get his job.

I told him no, that they wasn't nobody wanting his job, however.

He said it seemed like they had been trying to contradict him in his job—he was worried about his own job, and I told him—he said if I wanted his job I should go down and see Mr. J. G. Boswell.

I told him I didn't want his job, I didn't have any idea of that, I had a job of my own and I was qualified to take care of it.

Then he said, well, if he was wrong he was sorry, but he said, "We are going to straighten this out tomorrow."

(Testimony of O. L. Farr.)

He turned around and walked over to Mr. Spear and turned back to me—"There is one question I would like to ask you, if you will answer it."

And I said, "If I know it, I will."

He says, "Is Steve Griffin a member of the union?"

I said, "He is." And that was all.

Q. By Mr. Mouritsen: Now, prior— [272]

Mr. Clark (Interrupting): I move to strike that conversation, Mr. Examiner, upon the ground it is hearsay, not binding upon any of the Respondents and upon the specific ground, with respect to the Boswell Company, there has no authority been shown by the Company to Mr. Tom Hammond to make the statements testified to by the witness, on its behalf.

Trial Examiner Lindsay: I understand that Tom Hammond is a foreman of the gin department.

Mr. Clark: There still is no evidence—

Trial Examiner Lindsay (Interrupting): He may answer.

Mr. Clark: I take it the motion is denied? It was a motion to strike.

Trial Examiner Lindsay: The motion is denied.

Q. By Mr. Mouritsen: Prior to that conversation that you had on or about November 17th, 1938 with Mr. Tom Hammond, had you had, as a member of the Union committee, visited Mr. Gordon Hammond on the morning of that day?

A. I had.

(Testimony of O. L. Farr.)

Mr. Clark: May I have the date of that, please, Mr. Examiner? I missed it.

Is this the same date, November 17th?

Mr. Mouritsen: Yes, that is correct.

Mr. Clark: This is another conversation?

Mr. Mouritsen: That is correct.

Mr. Clark: Very well. [273]

Q. By Mr. Mouritsen: And did you understand that Tom Hammond was referring to the earlier meeting with Gordon Hammond when he spoke of a meeting with Gordon Hammond in his conversation with you? A. I did.

Q. Now, during the month of September, 1938, did you ever have any conversation with Tom Hammond regarding the Union? A. Yes. Tom——

Q. (Interrupting): Now, just answer yes or no.

A. Yes.

Q. Now, where did that conversation take place?

A. Close to the seedhouse, between the seedhouse and the oil mill.

Q. That is in the plant of J. G. Boswell Company? A. J. G. Boswell.

Q. Was anyone else present other than you and Tom Hammond? A. That is all.

Q. What did Mr. Hammond say to you at that time, and what did you say to Mr. Tom Hammond?

Mr. Clark: Objected to upon the ground it is hearsay, Mr. Examiner, and not binding upon any of the Respondents in this matter; with respect to the Respondent, Boswell Company, specifically, that

(Testimony of O. L. Farr.)

there is no authority shown in this record from the Company to Mr. Tom Hammond to speak for it with relation to any of the matters under investigation in this pro- [274] ceeding.

Trial Examiner Lindsay: He may answer.

The Witness: He asked me if I was a member of the Union. I told him I was, and he asked me who else. I told him that I didn't give out any information, that we didn't discuss our Union activities on the job; if he wanted to know if I was a Union man, at that time I was a Union man, in September.

Q. In that conversation did he make any suggestion to you that you obtain other employment?

Mr. Clark: Same objection.

Trial Examiner Lindsay: He may answer.

The Witness: He said if I wanted to belong to a Union, he thought that I should go where there was a Union, that the Company didn't want any Union there, over there.

Q. By Mr. Mouritsen: I believe you stated that you worked for the J. G. Boswell Company until November 18th, 1938; is that correct?

A. Yes.

Q. Did something occur upon that date—

A. (Interrupting): It did.

Q. (Continuing): —which caused your employment to cease with the Company?

A. Yes, sir.

Q. Did you work on the morning of November 18th, 1938?

(Testimony of O. L. Farr.)

A. Until 10:00 o'clock, approximately 10:00 o'clock.

Q. Will you state what occurred at 10:00 o'clock? [275]

A. Well, the cotton from the dryer quit coming to my gin, and I started out to see what was the trouble, and met Mr. Bill Robinson.

Q. Who is Bill Robinson?

A. Well, he is foreman around the gins, repairman, or something. He helped fix the gins, told you what to do on the gins when there was something to do in the way of repair. I figured him as a kind of trouble-shooter and foreman of the gin. He would give you some orders.

Q. State what conversation you had with Robinson, and what he said to you?

Mr. Clark: Objected to upon the ground it is hearsay, Mr. Examiner, and not binding upon any of the Respondents in this proceeding, and with respect to the Respondent, Boswell Company, that no authority has been shown from the Company to Mr. Bill Robinson to speak for it with relation to any of the matters subject to this investigation.

Trial Examiner Lindsay: He may answer.

The Witness: He said—I says, “What is the matter?” He says, “We are going to shut the gin down for a little meeting outside.”

He helped me shut the machinery down. I said. “Bill, what is the idea?”

(Testimony of O. L. Farr.)

“They will tell you about it outside. It is about the Union.” [276]

Q. By Mr. Mouritsen: Was that the end of the conversation? A. Yes, sir.

Q. Then what did you do?

Q. Mr. Robinson walked upstairs, and I walked out of the back door of the gin—the side door of the gin.

Q. Will you state what you observed at that time?

A. I walked out, and there was approximately sixty men outside of the gin, employees of the Company, farmers——

Mr. Clark (Interrupting): What was that word, Mr. Examiner?

Trial Examiner Lindsay: Farmers.

The Witness: Farmers and cowboys, or boys dressed as cowboys, with cowboy clothes, their riggin' on, you might call it.

So I walked on up out in the crowd by a bale wagon, and Mr. Jack Ely walked up to me and he said, “I want to know about your damn Union.”

And I said—— [277]

Mr. Clark (Interrupting): Now, just a minute.

Mr. Examiner: I move that that go out as hearsay, there being no authority at all shown on the part of Mr. Jack Ely to speak for anything about the respondent.

Trial Examiner Lindsay: That may go until we know who Jack Ely is.

(Testimony of O. L. Farr.)

Mr. Clark: I understand the question called for what occurred and, therefore, I didn't make any objection at the outset of the witness' answer. Lay the foundation.

Trial Examiner Lindsay: Just a minute. Now as I understand it, he is telling exactly what occurred outside at this meeting.

Mr. Clark: I understand that. I simply want my objection in as to the conversation, Mr. Examiner. This is the first time we have come to a conversation.

The Witness: I said, "What do you want to know about the union?"

Trial Examiner Lindsay: Just a minute. Who is Jack Ely?

The Witness: An employee of the Boswell Company.

Trial Examiner Lindsay: How is that spelled?

Mr. Mouritsen: I believe it is spelled E-l-y, Mr. Examiner.

Mr. Clark: I think that is correct.

Q. By Mr. Mouritsen: Now, will you continue with what [278] you observed and did on that occasion.

Trial Examiner Lindsay: He may tell the whole conversation and everything that took place at that meeting.

Mr. Clark: So far as the conversation is concerned, with Mr. Ely, I will urge the same objection, may it please the Examiner, namely, it is hearsay

(Testimony of O. L. Farr.)

as to all these respondents and specifically as to the respondent Boswell Company there has been no authority shown from the company to Mr. Ely to speak for it with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: Well, he may tell the conversation.

The Witness: Where was I?

Q. By Mr. Mouritsen: Mr. Farr, just to start, I believe you stated that Mr. Jack Ely said, walked up to you and said I want to know about your damn union."

Mr. Clark: Same objection, Mr. Examiner.

Trial Examiner Lindsay: Yes, you have an objection to that.

Mr. Clark: Counsel is repeating the question.

Trial Examiner Lindsay: He may answer.

The Witness: Well, he says,—I said, "Well, what about the union, Jac?"

He said, "The company doesn't want your union here," and he said, "I don't see why you fellows should turn agin' the [279] company you are working for."

I said, "Well, we don't—this is somebody else's meeting, this is not our meeting, and we don't discuss our union activities on the job."

So someone in the crowd said, "Who is the president of the union?"

I believe I said—myself—"Mr. Spear."

They said, "Mr. Spear is the man we want."

(Testimony of O. L. Farr.)

The crowd gathered around Mr. Spear. He tried to reason things with them——

Mr. Clark (Interrupting): I move that go out.

Mr. Mouritsen: Just state——

Trial Examiner Lindsay (Interrupting): —— what he said.

Mr. Mouritsen: State what he said.

Trial Examiner Lindsay: What he said there.

Q. By Mr. Mouritsen: Instead of saying, “He tried to reason,” tell what Mr. Spear said as you recall it. A. Mr. Spear said, “We——”

Mr. Clark (Interrupting): Just a minute. I don't want to interrupt too much, but I am going to object to whatever Spear said as not being in any way binding upon these respondents, and it is pure hearsay and self-serving.

Trial Examiner Lindsay: There is one point I want to ask: Was this meeting held on company property or was it just outside—— [280]

The Witness (Interrupting): Yes, sir.

Trial Examiner Lindsay (Continuing): ——the mill.

And that was during working hours?

The Witness: Yes, sir.

Trial Examiner Lindsay: You may proceed. You may have an exception.

Mr. Clark: Very well.

Q. By Mr. Mouritsen: Now, continue and tell us what Mr. Spear said at that time as nearly as you recall.

A. Mr. Spear said that we was only trying to

(Testimony of O. L. Farr.)

make the working conditions for everybody better; that the talk had been of some lay-off and that we wanted shorter hours for that reason, that everybody should work and get their share of the work.

The cry came out, "Let us throw them out. The company is behind us."

Q. Did you recognize—

Mr. Clark (Interrupting): Just a minute, Mr. Examiner. I move that that go out unless it is identified as having been stated by some person, and I have a chance to object to it or else until the witness states he is unable to identify where it came from.

Mr. Mouritsen: I will clear that up.

Trial Examiner Lindsay: Yes, either one or the other.

Q. By Mr. Mouritsen: Mr. Farr, you stated that the cry [281] came out from the union. Did you recognize the individual from the company—from the crowd—did you recognize anyone, any individual who made that cry? A. I did not.

Mr. Clark: I move to strike out the witness' statement concerning what was said in that regard upon the ground that it is hearsay, not binding upon these respondents, and no authority shown from the company to any such person to make any such statement.

Trial Examiner Lindsay: The answer may stand. Proceed.

You may have an exception.

(Testimony of O. L. Farr.)

The Witness: There was three men taken ahold of Mr. Spear—

Mr. Mouritsen (Interrupting): Do you know the individuals who did that?

The Witness: Yes, sir.

Q. By Mr. Mouritsen: Will you state who they were, please? A. Mr. Duncan—

Mr. Clark (Interrupting): May I have the spelling of the names, as near as you can give them?

The Witness: Duncan, Tisdale, and Sailsbury.

Q. By Mr. Mouritsen: Do you know the first name or the initials of any of those named?

A. John Duncan.

Q. How about Tisdale? [282]

A. Wallace Tisdale.

Q. And Sailsbury? A. Stan.

Q. And were all three of these individuals employees of the Boswell Company?

A. Yes, sir.

Q. Now, continue. What happened after these men took hold of Mr. Spear?

A. Mr. Spear asked them to take their hands off him and not bother him. They had torn his shirt considerable. One got by each arm, one on each side by the arm, and one by the back and pushed him to the superintendent's office of the Boswell Company. [283]

Q. And is the Superintendent office across the public highway from the plant itself?

A. Yes, sir.

Q. Did you follow these individuals as they

(Testimony of O. L. Farr.)

pushed Mr. Spear across into the Superintendent's office? A. I did.

Q. Were you present after that time in the Superintendent's office? A. Yes, sir.

Q. Did a number of other individuals accompany these three when they pushed Mr. Spear into the Superintendent's office? A. Yes, sir.

Q. Now, will you state what you saw and observed and heard in the Superintendent's office?

Mr. Clark: Well, may we have, Mr. Examiner, as nearly as this witness can give it to us, the identity of the persons present in the Superintendent's office on this occasion?

Trial Examiner Lindsay: If you can name anyone other than those three that went into the Superintendent's office.

Mr. Clark: If they went in.

Trial Examiner Lindsay: If they went in, yes.

The Witness: Those three went in. I know those fellows. There was a couple of fellows by the name of Winslow.

Mr. Clark: Winslow?

The Witness: Yes. [284]

Bill Robinson, Kelly Hammond.

Mr. Clark: Kelly Hammond?

The Witness: Kelly Hammond.

Burdine, Mr. Mitchell, the Robinson boys, Bill Robinson and Sam Robinson.

Mr. Clark: You have given us Bill Robinson. Now, Sam Robinson?

The Witness: Yes.

(Testimony of O. L. Farr.)

Q. By Mr. Mouritsen: Do you recall the names of any other people who were in the Superintendent's office at that time?

A. I don't believe so. There was a considerable crowd there. I could call those and know for sure, but there was quite a crowd there.

Q. And Mr. Spear was also there; is that correct?

A. Yes, Mr. Spear; and Mr. Martin, Mr. Andrade, Mr. Wingo. I don't recall anyone else, but there could have been.

Q. Will you state what occurred—strike that.

When you say the Superintendent's office, to what individual do you refer?

A. Mr. Gordon Hammond.

Q. Will you state what occurred in Mr. Gordon Hammond's office on that occasion?

A. Someone demanded Mr. Louie Robinson to pay us off, to give us our checks.

Q. Do you recall the individual who made that demand? [285]

A. I do not. The office was full and they were out in the hall.

Q. All right.

Now, just what further occurred?

A. Mr. Louie Robinson came to the door and said, "You men go back and start your machinery. I will be right out in a short while."

Q. What then occurred?

A. "—and straighten this out."

Q. What occurred—

(Testimony of O. L. Farr.)

Mr. Clark (Interrupting): May I ask if that is part of Mr. Robinson's statement? I think you interjected a question, Mr. Counsel.

Trial Examiner Lindsay: Maybe he did or maybe he didn't.

Mr. Clark: May we have the record read back?

Trial Examiner Lindsay: Yes.

Did Robinson say in his statement that he would come out and straighten the thing out?

The Witness: Yes.

Trial Examiner Lindsay: You are telling his conversation?

The Witness: Yes.

Mr. Clark: That clears it up

Q. By Mr. Mouritsen: Tell us next what occurred at that time?

A. The men just walked out around the office. Everybody [286] stopped. We were left out—the men that were operating the machinery, we all walked back and I started my machine; ginned cotton approximately four or five minutes.

Q. What happened?

A. Four men came into the front door of the gin.

Q. Who were they?

A. Mr. Kelly Hammond, Mr. Burdine, Mr. Mitchell and Joe Hammond.

Q. Yes.

Do you know what Mr. Mitchell's initials, or his name, is?

A. I don't believe I could recall.

(Testimony of O. L. Farr.)

Q. Was he an employee of the Boswell Company? A. Yes, sir.

Q. And were these other individuals employees of the Boswell Company? A. Yes, sir.

Mr. Clark: May I have them named again? I have three of them, Kelly Hammond, Mitchell and Burdine.

The Witness: Joe Hammond.

Trial Examiner Lindsay: Is this Joe Hammond the same Joe Hammond that is classified as a foreman?

The Witness: Yes.

Q. By Mr. Mouritsen: Very well.

Now, other than yourself and these four men, were any others [287] present?

A. Mr. Spear was starting his electric motor on his gin.

Q. Did he take part in any conversation that followed? A. Mr. Spear?

Q. Yes. A. Later he did.

Q. Yes.

And who is Mr. Spear?

A. A ginner that ginned on the opposite gin. There are two gins in one plant, and Mr. Spear ginned on the opposite gin.

Q. Is that Lonnie Spear? A. Yes.

Q. Will you state what was said by yourself and by these other men at that time?

Mr. Clark: Objected to on the ground it is hearsay, and not binding on any of these Respondents, and particularly as far as the Respondent, Boswell

(Testimony of O. L. Farr.)

Company is concerned, that no authority whatsoever has been shown from the Company to any of the individuals mentioned to make any statement at all for it or on its behalf with respect to the matters under investigation in this proceeding. [288]

Trial Examiner Lindsay: He may answer.

The Witness: Mr. Kelly Hammond shut my air blast fan off of the gin which carried the lint from the stand which chokes the stand when the air leaves. So I quit feeding the overflow up, which I was ginning, and raised the gin stand.

Mr. Bill Robinson came along and shut some more machinery off, and I stopped. I asked Mr. Robinson what to do about it. And he said, he says, "I have nothing to do about it."

At that time Tom Hammond walked in, and I said, "Tom, what do you want me to do? Do you want me to run this machinery under these conditions?"

And he didn't answer me. He turned around and walked out.

Q. By Mr. Mouritsen: What next occurred?

A. I went over to Bill Robinson—

Mr. Clark (Interrupting): I move to strike all of that conversation on the ground of the objection previously urged.

Trial Examiner Lindsay: It may stand.

The Witness: Mr. Bill Robinson and I— I walked over to Mr. Bill Robinson and talked to him about the running of the machinery. And he said —

(Testimony of O. L. Farr.)

Mr. Clark (Interrupting): The same objection, Mr. Examiner. [289]

Trial Examiner Lindsay: The same ruling. Proceed.

The Witness: He says, "There don't seem to be enough of you union men to run it." And he said, "I should say you should go home. That would be my advice."

Mr. Wingo spoke up and asked him, and he said, "As a foreman, will you tell us to go home?"

And he said, "No, not as a foreman, but that is my idea, that you men had better go home."

Mr. Clark: May I understand, Mr. Examiner, who it is that is carrying on this part of the conversation?

Trial Examiner Lindsay: I think he stated Bill Robinson; is that right?

The Witness: That is correct.

Trial Examiner Lindsay: Let us pay attention to the conversation.

Q. By Mr. Mouritsen: What then occurred?

A. The gang seemed to—

Q. (Interrupting): Don't give us your own conclusion. Tell us what you observed and what happened.

A. Excuse me.

I stood around a little while and nobody didn't say anything to me, only Bill Robinson and I. So I walked out to the front door of the plant. And an elderly gentleman by the name of Derichsweiler. I believe—I believe that is his name—and his son were standing there. [290]

(Testimony of O. L. Farr.)

And he says, "This is one of them, too, isn't it?" He said, "Let us throw him out."

Mr. Clark: The same objection, Mr. Examiner. There is no identity shown so far as Mr Derichsweiler and his son are concerned.

Q. By Mr. Mouritsen: Did you know who Mr. Derichsweiler and his son were? A. Yes, sir.

Q. Who were they?

A. Employees of the Boswell Company of the gin.

Q. Had you seen them working about the gin in the plant there? A. Yes, sir.

Mr. Clark: I move to strike out the portion of the conversation that has gone in already and object to any further statements by this witness concerning what either Derichsweiler said on the ground that it is hearsay as to all of these respondents and not binding upon any of them, and with respect to the Boswell Company upon the further ground that no authority has been shown from the company to the Derichsweilers or either of them to speak for the company in regard to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: All of this took place on company property during working hours?

The Witness: Yes, sir.

Trial Examiner Lindsay: As I understand it, Bill [291] Robinson is acting as a foreman there, is that right?

The Witness: Yes, sir.

Mr. Clark: I object to that, Mr. Examiner, on

(Testimony of O. L. Farr.)

the ground it calls for a conclusion of this witness with respect to what Bill Robinson's connection is with the company, and that is why I asked a while ago as to the person with whom this conversation was made, as I didn't understand that Mr. Robinson had been identified, as have the two Hammonds, as foremen.

Trial Examiner Lindsay: Mr. Robinson has been identified as a foreman. He may answer these questions, and the motion is denied.

The Witness: Mr. Derichsweiler says, "Let's throw him out. Mr. Gordon Hammond said you can have his job if we can get shut of them. You can have your job back ginning as you had while he was away."

Q. By Mr. Mouritsen: To whom did he say that?

A. He said that to me, or his son. I suppose it was his son he was talking to, but they were both there.

Mr. Clark: I suggest that is not responsive. I think the question was, "Who said that?"

Mr. Mouritsen: No, to whom——

Trial Examiner Lindsay (Interrupting): The question was to whom did he make the statement.

Mr. Clark: Very well. May I ask who said it? [292]

The Witness: Mr. Derichsweiler.

Q. By Mr. Mouritsen: Now, do you know the first names or initials of either Mr. Derichsweiler or his son? A. I do not recall it.

(Testimony of O. L. Farr.)

Q. May I ask you this: Does Mr. Derichsweiler have two sons working at the plant?

A. That is right; yes, sir.

Q. Do you know them by, either the elderly Derichsweiler or his sons, by any nicknames?

A. The older one, the old gentleman, the boys called him "Good Friday." That is the name he is known by in the plant.

Q. Do either of the sons have nicknames?

A. No, sir, not that I know of.

Q. And what next occurred at that time?

A. Mr. Wingo came and he and I walked away.

Q. When you say you walked away, you mean you left the plant at that time?

A. Yes, we left the plant at that time.

Q. At the time you left, was your machine still shut down? A. Yes, that is right.

Q. Do you recall approximately the time of day?

A. Well, it was approximately 11:00 o'clock.

Q. Now, directing your attention again to the crowd that you saw when you walked out of the gin for the first time, did you see any foreman of the plant present in that crowd? [293]

A. Yes, sir.

Q. Who did you see?

A. I saw Mr. Rube Lloyd.

Mr. Clark: I object to anyone being identified as a foreman who hasn't been already testified to by this witness on the ground that it calls for his conclusions.

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: You may name them and tell the facts surrounding them.

The Witness: Mr. Busby, Mr. Joe Hammond, Mr. Tom Hammond, Mr. Bill Robinson.

Q. By Mr. Mouritsen: Now, I believe you have already told us what Joe Hammond and Bill Robinson do.

What work had you observed Rube Lloyd doing at the plant?

A. He is the building superintendent at—he has charge of the carpenters and the building construction, setting pumps. I have worked under him. [294]

Q. At the time when you worked under him, did he also have a number of other men working for him? A. Yes, sir.

Q. Did you see him give orders to these other men regarding their work? A. Yes.

Q. Did he ever tell you when to come to work and when not to come to work? A. Yes, sir.

Q. Did you ever observe him tell other men when to come to work and when not to come to work? A. Yes, sir.

Q. You also mentioned Busby as being present at that time.

Have you observed the work that Mr. Busby does at the plant?

A. He had charge of the machine shop.

Q. Do you know Mr. Busby's first name or initials? A. I do not.

Q. What work have you seen Mr. Busby do at the plant?

A. I have seen him operate the lathes and tell

(Testimony of O. L. Farr.)

the men that work—give orders to the employees in the machine shop.

Q. Approximately how many employees are there in the machine shop?

A. From three to five.

Q. And have you observed Mr. Busby directing the work of these [295] other employees in the machine shop?

A. I didn't understand.

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I have.

Q. By Mr. Mouritsen: Have you ever heard him give any orders to these other employees in the machine shop?

A. Yes, sir.

Q. Have you ever heard him tell those men when to come to work and when not to come to work?

A. No, I don't believe I did.

Q. Now, after you left the plant on November 17th, 1938, at approximately 11:00 o'clock, did you ever after that time call, or have a conversation with Mr. Louis T. Robinson?

Trial Examiner Lindsay: Just a moment, please. Is that November 17th or 18th?

Mr. Mouritsen: If I said November 17th, I meant November 18th.

Trial Examiner Lindsay: Change that in the question to November 18th.

The Witness: Yes, sir.

Q. By Mr. Mouritsen: Approximately how long after you left the plant?

(Testimony of O. L. Farr.)

A. Well, just as quick as I got home. [296]

Q. And what did you do at that time?

A. I called Mr. Louie Robinson over the telephone.

Q. Did someone answer on the other end of the telephone? A. Yes, sir.

Q. Did he identify himself as Mr. Robinson?

A. He did.

Q. Will you state the conversation that you had with Mr. Robinson at that time?

A. I told him what had happened when we went back to work, and did he want us to come back to work.

He said, "No, not now." He said, "I will check into this, and I will let you know."

And I said, "When?"

And he said, "Well,——" I said, "If you will let me know by 1:00 o'clock what you are going to do about it, I would be very glad."

He said, "Well, I will let you know in the near future."

So I insisted by 1:00 o'clock, and he said that he would try to do it.

Q. And did you hear from him by 1:00 o'clock?

A. I did not.

Q. Did you hear from him that day?

A. No.

Q. Have you heard from him about it since that time?

A. No, not to come back to work. [297]

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: Who is this man you are talking about?

The Witness: He is the general manager.

Trial Examiner Lindsay: Louie——

The Witness (Interrupting): Mr. Louie Robinson, general manager of the Boswell plant. That is my understanding.

Trial Examiner Lindsay: That is the man you had this telephone conversation with?

The Witness: Yes.

Q. By Mr. Mouritsen: Are you a member of any labor organization? A. Yes, sir.

Q. Of what organization?

A. I am a member of the A. F. of L.

Q. Do you recall the name?

A. The Cotton Products and Grain Mill Workers' Union, Local No. 21798, Corcoran, California.

Q. When did you become a member of that organization? A. September 2nd, 1938.

Q. During the months of September, October and November of 1938, were a number of meetings of that organization held in your house?

A. Yes, sir.

Q. Did you ever have any conversation with Mr. E. F. Prior along in March of 1938 relative to the formation of the Union [298] at the Boswell plant?

A. Mr. Prior came to my home——

Mr. Clark (Interrupting): May I just have the question answered yes or no?

Q. By Mr. Mouritsen: Answer that yes or no.

(Testimony of O. L. Farr.)

A. Yes, sir.

Q. And at that time, or subsequent to that time, did you and Mr. Prior make some arrangement for holding a meeting in Corcoran?

A. Prior to that time I think that I—I don't think so at that time.

Q. I mean, after that time? A. Yes, sir.

Q. And was such a meeting held after that time?

A. Yes, to my best knowledge it was. I wasn't there.

Q. Well, did you ever give to Mr. Prior a list of names of the employees of the J. G. Boswell Company? A. I did.

Q. Do you recall about when you gave him the list of names?

A. I do not recall the date.

Trial Examiner Lindsay: We will have a ten minute recess.

(At this point a short recess was taken, after which proceedings were resumed, as follows:) [299]

Trial Examiner Lindsay: The hearing is called to order.

Mr. Mouritsen: May I have a moment, Mr. Examiner?

(Conference between counsel.)

Q. By Mr. Mouritsen: Now, Mr. Farr, when you were last on the stand, I believe you testified about a list of employees of the J. G. Boswell Company that you furnished to Mr. Prior. Where did you obtain that list?

(Testimony of O. L. Farr.)

A. From Mr. Gilmore.

Q. Who is Mr. Gilmore?

A. He was an employee at Boswell Company previous to that time.

Q. Do you know whether or not at that time, when he gave you the list, he was an employee?

A. Yes. He was at the time he gave it to me.

Q. Do you know Mr. Gilmore's first name or initials? A. Jim Gilmore.

Q. Now, after you ceased to work for Boswell Company on November 18, 1938, have you had any employment since that time?

A. No, not any to speak of. I have worked a little at a few odd jobs.

Q. Do you know approximately how much you have earned since November 18, 1938?

A. Approximately \$15.

Q. If the National Labor Relations Board should order your [300] reinstatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. Yes, sir.

Mr. Mouritsen: You may inquire.

Cross-Examination

By Mr. Clark:

Q. Mr. Farr, will you please tell us the duties of Bill Robinson which you saw him perform while you were working at the Boswell plant?

A. Well, he would tell me what to do.

Q. Well, in what department, please?

A. In the gins; in the gins.

(Testimony of O. L. Farr.)

Q. In the gins? A. Yes.

Q. Didn't Mr. Robinson or, rather, wasn't Mr. Robinson a mechanic who had charge of keeping the gins in condition?

A. Well, some of his work was that. That is right.

Q. Did you work under him as a mechanic?

A. No, I don't think so; no, sir.

Q. Did you ever hear Mr. Robinson give you any orders with respect to how to operate the gin?

A. Yes.

Q. Will you please give us the nature of those orders?

A. Well, I have had him bring cotton seed back and tell me that the ginning wasn't just right, to make a little change. Take the lint, you know, as we know it, cotton being tagged, [301] the gins, and would like for me to change the gins to that effect, if the gin was not right, happened to be some burrs in it, in the seed or something, the sample, he would come around to see about my condenser, possibly I better stop and see about it on account of the samples which was—they was very particular, you know, in making the samples for the cotton, give me orders that way in the way of doing a good job of ginning.

Q. Well, did Mr. Robinson ever give you any orders in connection with your duties as a ginner in the same manner as you have told us that Mr. Joe Hammond did?

(Testimony of O. L. Farr.)

A. Yes. He has told me when to quit.

Q. Bill Robinson?

A. Yes; what time to run and to quit.

Q. Was that true of Mr. Robinson during the entire time you were employed at the Boswell Company?

Mr. Mouritsen: Just a moment.

Trial Examiner Lindsay: Just a moment.

Mr. Mouritsen: That is Mr. Farr, is that it?

Q. By Mr. Clark: Is that true of Mr. Robinson during the entire time you were employed at the Boswell plant, namely, that he gave you orders on occasions as to when to quit and when to come to work?

Trial Examiner Lindsay: Oh.

The Witness: No, sir. [302]

Q. By Mr. Clark: Well, can you tell us during what period, if any, the condition which you have described was true? A. Well, in the gins.

Q. Well, was it true during all the time that you happened to be working in the gins?

A. The last two seasons.

Q. And by the last two seasons you mean the '37-'38 season and the '38-'39 season?

A. That is right.

Q. Is that true? A. That is true.

Q. How long have you been engaged in working in and around cotton gins, Mr. Farr?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: It is preliminary.

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: He may answer.

The Witness: Better than 20 years.

Q. By Mr. Clark: I see.

And it is true, isn't it—withdraw that.

And you first came to work for the Boswell Company some time in 1936, I think you said.

A. Yes, sir.

Q. All right.

Now, it is true, isn't it, that in this particular locality, as you have observed the conduct of the Boswell opera- [303] tion during the time you have been employed there, that the ginning season starts along in September of each year?

A. Sure, that is when they start to gin the cotton.

Q. Right.

When we speak of the '37-'38 season, we mean, or rather, you mean, you understand, that it is the season commencing in September 1937 and ending some time in the middle of the year 1938, isn't that true? Isn't that the ordinary year?

A. The crushing of cotton seed ended in the middle of the year.

Q. Well, your ginning season is quite short, isn't it?

Mr. Mouritsen: Objected to as vague and indefinite.

Trial Examiner Lindsay: Let him tell how long it is.

Q. By Mr. Clark: Take the year '38-'39, which

(Testimony of O. L. Farr.)

is the ginning season which commenced last September, you say, will you please tell us how long that particular ginning season lasted so far as the Boswell plant was concerned?

A. The season of '38 and '9?

Q. '38 and '9.

A. I couldn't answer that question. I wasn't there after November 18th. [304]

Q. Well, did the gins operate continuously from September 1938 up until the time you left on November 18th?

A. I don't know. They started, I believe, the first of October this last season, right around the first of October, probably the 5th of October; most of them started then.

Q. Approximately in early October, you think they started, and then did they operate continuously up until the time you left? A. Yes.

Q. Was there no days during that period of time when the gins were not operating?

A. Not that I know of while I was there.

Q. I see.

Now, take the season before last season, that is the 1937-38 season, can you tell us how long that ginning season lasted at the Boswell plant, just approximately?

A. Oh, approximately until February.

Q. In other words, from September or early October of 1937 until February the following year; is that true? A. Approximately.

(Testimony of O. L. Farr.)

Q. Yes.

Now, did you notice any difference between the two seasons, so far as the volume of cotton in the Boswell plant?

A. I don't know as I paid any attention to it. I had all I could do both times. [305]

Q. Did you notice any difference in the number of men employed at the Boswell Company during the two seasons, that is, as between the '37-'38 season and the '38-'39 season?

A. No, sir, I didn't have any way of knowing the employment of both sides.

Q. I am just asking you for your observation as to the number of men around the plant.

Did it impress you that there were more men during one season than during the other?

A. There were men working last year that never had worked before.

Mr. Clark: I move that go out as not responsive. He may add that as an explanation, but I would like an answer to the question.

Trial Examiner Lindsay: Yes.

The Witness: I couldn't say.

Q. By Mr. Clark: In other words, so far as you are concerned, you cannot tell us?

A. I couldn't tell you.

Q. Whether or not you noticed that there were more men in one season than in the other, is that true?

A. I couldn't say, for I don't know.

Q. All right.

(Testimony of O. L. Farr.)

Now, how did you happen to get your job at Boswell's?

A. I was over at Bakersfield, and I had a brother-in-law that [306] was in the automobile business, and a ginner here at the Boswell Company owed him for an automobile. He called the ginner about this automobile and asked the ginner if they needed any more ginner here, and Mr. Hammond was present. He talked to Mr. Hammond, and Mr. Hammond told him he could use a man if he was a ginner.

Q. All right. That is your brother-in-law, and not your brother, is that right?

A. Brother-in-law.

Q. Have you a brother in Bakersfield?

A. Not now.

Q. Is your brother-in-law still there?

A. No, sir.

Q. Well, is it your brother or your brother-in-law who was president of the Local Cotton Workers' Union in Bakersfield?

A. Something over a year ago, my brother was president of the Local there, something over a year ago.

Q. I see.

In other words, more than a year ago you had a brother in Bakersfield who was president of the Local Union of the Cotton Gin Workers affiliated with the A. F. of L. with headquarters in Bakersfield, is that true?

A. Yes, sir.

(Testimony of O. L. Farr.)

Q. Now, wasn't this brother the one who got you your job by telephoning Gordon Hammond? [307]

A. My brother-in-law.

Q. I see.

Your brother never contacted Gordon Hammond in that regard, is that right, so far as you know?

Mr. Mouritsen: I object to all of this as immaterial. It has no bearing upon the issues.

Mr. Clark: I think it has.

Trial Examiner Lindsay: You may answer.

Mr. Clark: I will re-frame the question.

Q. So far as you know, your brother, who was, you have said, head of one of the A. F. of L. Locals in Bakersfield, never contacted Gordon Hammond asking for a job for you?

A. No, sir, not that I know of.

Q. Not that you know of? A. No.

Q. What is your brother-in-law's name?

A. Barnett.

Q. Is he still in business in Bakersfield?

A. No, sir.

Q. Where is he, do you know?

A. No, I don't for sure know where he is; in the State of Washington.

Q. And how long ago did he move away?

A. Ten months; approximately ten months.

Q. Were you in Bakersfield when this job was arranged for you [308] between your brother-in-law and Gordon Hammond, or were you in Oklahoma?

(Testimony of O. L. Farr.)

A. I was in Bakersfield at the time he called Mr. Hammond.

Q. I see.

And had you worked in this State prior to that time? A. No, sir.

Q. In other words, you had just arrived here from Oklahoma, isn't that true?

A. Yes, some few days.

Q. Yes.

Did you belong to an A. F. of L. Union back there?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: Very well.

Trial Examiner Lindsay: Sustained.

Mr. Clark: May I have Board's Exhibit 3?

(The document referred to was passed to Mr. Clark.)

Mr. Clark: Now it develops, Mr. Examiner, that Mr. Farr's page in Board's Exhibit 3 was in this book the other day——

Mr. Mouritsen (Interrupting): It is now——

Mr. Clark (Continuing): ——when all counsel looked at it, but it was mis-filed under the "G's", I think.

Will you please find it, Mr. Painter?

(Mr. Painter examines document.)

Mr. Clark: All right.

Will the Examiner indulge me just a minute?

(Testimony of O. L. Farr.)

I only find [309] the one sheet here, and there is a sheet No. 2.

Q. Well, Mr. Farr, will you please fix for us again, as nearly as you can, the time when you first started to work at the Boswell plant when you first came to work?

A. I will say the 5th of September; approximately the 5th of September, 1936.

Q. I see.

And you worked there continuously for how long?

A. Well, possibly had a little vacation, was sick a time or two, up until the 19th of July, '37.

Q. I see.

And then what happened, please?

A. I worked for the San Joaquin Cotton Company for approximately four months.

Q. With respect to your going to the San Joaquin—first, might I ask this—withdraw that.

Is the San Joaquin Cotton Company also called Anderson & Clayton? A. That is right.

Q. What work did you perform for them there?

A. I first went out and set up some new gins, a couple of new gins, I believe.

Q. And then what did you do?

A. I was day foreman for the San Joaquin Cotton Oil Mill in Bakersfield. [310]

Q. I see.

That was at a considerably higher salary than you had received, or a higher wage than you had received here at Boswell's, wasn't it? [311]

(Testimony of O. L. Farr.)

Mr. Mouritsen: This is objected to as immaterial, incompetent, irrelevant and immaterial.

Mr. Clark: I submit it.

Mr. Mouritsen: It doesn't tend to prove or disprove the issues.

Mr. Clark: He has said something, Mr. Examiner, about being dissatisfied with the conditions as one of his reasons——

Trial Examiner Lindsay (Interrupting): I do not think it is material, what he did over there, but he may answer.

The Witness: No, sir. It was practically the same.

Q. By Mr. Clark: Practically the same? You worked shorter hours, didn't you?

A. No, sir.

Q. What were your hours at Anderson and Clayton? A. I was paid by the month.

Q. Well, what were your hours?

A. Well, it was 12 hours; foreman, day foreman, at the oil mill, 12 hours.

Q. Day foreman at the oil mill and you worked 12 hours there? A. Yes.

Q. And you say your compensation was about the same? A. Approximately the same.

Q. After you worked there four months, then, you came back to Boswell, didn't you? [312]

A. Yes, sir.

Q. Why was that?

Mr. Mouritsen: Objected to as immaterial.

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: Oh, he may answer.

The Witness: Well, when I left Boswell, Mr. Hammond, for the Boswell Company, Mr. Hammond told me I could come back at any time I wanted to. I had a check left there. I came back after the check a month after I left and Mr. Hammond said, "When you want to come back home, you can come back home. There is a job waiting for you."

Q. By Mr. Clark: You are talking about Joe Hammond? A. Gordon Hammond.

Q. Mr. Gordon Hammond? A. Yes.

Q. Gordon Hammond was the one I meant.

A. That is right.

Q. Gordon Hammond was the superintendent for the employees, the man whom employees see to get jobs and who has control over them, isn't that right? So far as you have been able to observe?

Mr. Mouritsen: Objected to as being vague.

Mr. Clark: Withdraw it all.

Q. At any rate, it was Mr. Gordon Hammond who told you you could come back home when you wanted to, is that right? A. Yes.

Q. As a matter of fact, during the time you have been at the [313] Boswell plant, that has been the spirit among the employees, hasn't it, that the Boswell plant is home, and they are all one family?

Mr. Mouritsen: I object to that as incompetent, irrelevant and immaterial.

Mr. Clark: I submit it, Mr. Examiner.

Trial Examiner Lindsay: He may answer.

(Testimony of O. L. Farr.)

The Witness: It wasn't to me. I never had heard that until after, until later. I have heard it in the last six months, but up to then I don't believe I had ever heard it, up until then; I don't think I ever heard it mentioned, but later I have heard it.

Q. By Mr. Clark: Well, one month after July 1937 didn't Mr. Gordon Hammond tell you that when you wanted to come back home you could?

A. Yes.

Q. And then three months after that you did come back and asked for work at the Boswell Company, isn't that true? A. Yes, sir.

Q. Now, you have told us that you were dissatisfied with the 12-hour shifts which were worked by the employees of the Boswell Company during some of the time, at least, when you were employed there.

Mr. Farr, will you please state whether the number of hours worked were the result of any agreement among the em- [314] ployees?

Mr. Mouritsen: May I have that question?

Mr. Clark: I will reframe the question.

Q. Will you please tell us whether or not to your knowledge the employees at Boswell had anything to say about the number of hours they worked?

A. No, sir; I didn't have anything to say about it.

Q. Well, were you ever consulted by the company or other employees, as to whether or not you would rather work 12 hours a day than 8 hours?

A. No.

(Testimony of O. L. Farr.)

Mr. Mouritsen: I object to that. What if the other employees did ask Mr. Farr whether he would like it or not? That has no bearing upon the case.

Mr. Clark: Its purpose is to show, may it please the Examiner, that the matter of working 12 hours a day was the result of a request of the employees to be allowed to do that so as to make more money, and that the company was perfectly willing that they work 8 hours if they so desired.

Trial Examiner Lindsay: Now, Mr. Attorney, you are not testifying. You have a witness on the witness stand. You might ask him the questions.

Mr. Clark: I am stating my purpose for asking the question in answer to an objection.

Trial Examiner Lindsay: We don't know whether that is a [315] fact or not a fact. Examine the witness.

Mr. Clark: That is all I was seeking permission to do.

Trial Examiner Lindsay: I am allowing you to ask Mr. Farr.

Mr. Clark: Very well. I didn't understand that your Honor had ruled. I will reframe the question.

Q. Isn't it true, Mr. Farr, that the matter of working 12 hours a day was solely up to the employees at Boswell while you were there, so far as the company was concerned?

Mr. Mouritsen: May I have my objection that it is immaterial?

Trial Examiner Lindsay: Yes. He may answer.

(Testimony of O. L. Farr.)

The Witness: Well, I never heard them say anything against it or anything about it at all, the employer.

Q. By Mr. Clark: Didn't Mr. Gordon Hammond, when you discussed that matter with him, as I think you testified to in your direct examination, tell you that the matter of hours was the wish of the majority of the men?

A. Yes, sir. He said that he would try to get the hours down, that he would look into this matter.

Q. All right.

Now, let us go to that conversation——

Mr. Mouritsen (Interrupting): Just a minute. I hate to interrupt, but could we have that question and the answer? I don't think the witness understood it and I would like to [316] be sure that he does.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Now, just a moment. In the first place, your question is assuming facts that he did not testify to, and I wish you would reframe that question.

Mr. Clark: I have a right to do that, I think, Mr. Examiner, on cross examination. I will submit the objection to the question.

Mr. Mouritsen: Could we—may I ask if the witness understands the question.

Mr. Clark: I think the witness understands the question.

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: Let us not argue. He has a right to ask that.

The Witness: I didn't understand the question.

Q. By Mr. Clark: Very well. Will you please explain your answer, then.

A. Mr. Hammond said that if 12 hours a day was too much for a man to work, that he hadn't had any complaints about it, but that he had heard complaints over at the plant about it, and I told him that the employees in the plant at that time was all taking on about the 12 hours, 7 days a week, and the short change which we had. At weeks when we went from days—from nights to days—we worked 90 hours that week, and it [317] was a short change.

Q. All right.

Now, will you please name for us all the employees that you can call to mind at this time who have complained to you about that condition prior to the time you talked to Mr. Gordon Hammond.

A. Well, it would be hard; practically everybody was taking on about it.

Q. Let us have some specific names, as many as you remember.

A. Well, the boys that worked in the lint room.

Q. Let us have their names, please, Mr. Witness, if you can give them.

A. I couldn't call those Mexicans' names. I sure couldn't.

Q. Were they just Mexicans who so complained to you?

(Testimony of O. L. Farr.)

A. That was in the lint room—no, sir, there was considerable complaint among practically all of the employees about 12 hours 7 days a week.

Q. Well, just give us the names of any employees who made that complaint to you prior to the time that you talked to Mr. Hammond.

A. Mr. Dick White.

Q. Dick White.

A. A saw filer in the oil mill.

Q. Give us another.

A. Mr. Wingo, Mr. Spear—well, it would be hard for me to [318] recall the names.

Q. Is that all that you can at this time name who had made complaints to you concerning the hours prior to this conversation with Mr. Hammond? A. And be exact; and be exact.

Q. I see.

When did this conversation with Mr. Gordon Hammond take place?

A. Some time in the latter part of August.

Q. Of what year? A. '38.

Q. I see.

And was that the first time that you had ever said anything to Mr. Hammond concerning the fact that you were working 12 hours a day?

A. No. I had talked it before then, that it was too long to work.

Q. And to whom had you so talked it?

A. Mr. Gordon Hammond.

Q. And when?

(Testimony of O. L. Farr.)

A. At various occasions we would be talking about the conditions.

Q. Well, did you customarily discuss the conditions in the plant with Mr. Gordon Hammond? Did you from time to time discuss conditions in the plant so far as the employment was concerned with Mr. Gordon Hammond? [319]

A. Oh, we have talked about it occasionally.

Q. In other words, every time you wanted to discuss the terms of your employment with Mr. Hammond, he sat down and talked to you about it, didn't he?

A. I don't know as he sat down; I don't know.

Q. Well, standing up.

A. I don't recall. He talked to me about it, yes.

Q. And every time that you wanted to talk to him about it, he listened and he discussed those matters with you, isn't that true? A. Sure.

Q. On any of those occasions, did he tell you that if you were to continue at Boswell, you could not join a union?

A. No. He told me it was agin' the law for him to tell me that, to not join no union—I can't tell you to join a union—Mr. Hammond states, "I can't tell you not to join a union for it is agin' the law for me to tell you that."

Q. And he also said it was against the law for him to tell you to join a union, didn't he? Either way.

(Testimony of O. L. Farr.)

A. I don't remember about the other way, but I remember that way.

Q. Didn't he tell you that it was the policy of Boswell Company and for himself, Mr. Gordon Hammond, to say nothing to the men concerning whether they should join or not join a union? [320]

A. He told me it was agin' the law for him to tell me not to join the union.

Q. Didn't he tell you he had been instructed to that effect by the company, namely, to say nothing to the men one or the other about joining a union?

A. No, sir.

Q. Did he tell you how he learned it was against the law for him to tell you not to join a union?

A. No, sir.

Q. Did he say anything at all further in that regard? A. No, sir.

Q. And when did this take place, please?

A. At one time in the office.

Q. And can you fix the date?

A. The latter part of August.

Q. Well, is it the same conversation that we have been referring to and at which, I think you told us, that you, for the first time, mentioned to Mr. Hammond that the 12 hours was too long? Is that the same conversation?

A. The same conversation, yes.

Q. I see.

That was the first time you had told Mr.—with-draw that.

(Testimony of O. L. Farr.)

Now, you had started some activity—withdraw that.

You had consulted with Mr. Prior about organizing an [321] American Federation of Labor Union in this plant among the employees as early as March of that year, hadn't you? A. Yes, sir.

Q. And from March until this date, August in 1938, no one representing the company had said anything at all to you, one way or the other, about your joining the union, isn't that right?

A. No, sir; it isn't.

Q. All right. Tell us what happened prior to August, the August meeting.

A. I had been asked several times by Joe and Tom Hammond if I were a member.

Q. All right.

Mr. Mouritsen: Let the witness finish his answer.

Mr. Clark: That may stand. Finish your answer.

The Witness: They had asked me at various times if I was a member of the union.

Q. By Mr. Clark: All right. Let me reframe my question.

From the time in March when you first consulted with Mr. Prior about organizing an American Federation of Labor union in this plant, up until the conversation you had in August of 1938 with Mr. Gordon Hammond, you had not discussed the matter of joining a union with either Mr. Gordon Ham-

(Testimony of O. L. Farr.)

mond or Mr. Louis T. Robinson, the plant manager, or any one from the Los Angeles office of Boswell Company, had you? [322]

A. (Pause)

Q. Now, Mr. Witness, please keep your eyes on the Examiner or on me, not on Mr. Prior or counsel. I realize you have talked this over with them, but just let us have your answers.

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

The Witness: No, sir.

Q. (By Mr. Clark): And the August conversation you have told us about with Mr. Gordon Hammond was the first discussion concerning unionization which you had had with Mr. Gordon Hammond?

A. No, sir. If I understand that question right, no. The other question, we had not talked about the union, organization you said,—but we had talked about a union between the times.

Q. You mean with Mr. Gordon Hammond?

A. Yes, sir.

Q. Now, let us have the date of that conversation.

A. I can't place that date. I can recall it this way: There was a car in our place that belonged to the company and Mr. Hammond and some other

(Testimony of O. L. Farr.)

fellow came up for it and ran out of gas. I *taken* Mr. Hammond back down——

Q. (Interrupting): Just a minute, please. Let us fix the date as nearly as we can. [323]

What year was it?

Trial Examiner Lindsay: Finish your answer, first.

Mr. Clark: He was starting in with a conversation, Mr. Examiner. I would like to get it located as nearly as I can before we have the conversation.

The Witness: It was some time in July or August of '38.

Q. (By Mr. Clark): All right.

Some time in July or August of 1938, and this conversation you are about to testify to was with Mr. Gordon Hammond, is that right?

A. Yes, sir.

Q. Now, do you remember whether anyone else was present? A. *They* was not.

Q. And where was the conversation?

A. I believe it was in my car as we drove back to the Boswell plant from my home after some gasoline.

Q. Well, was it at the Boswell plant, then, whether it was in your car or not? Was it at the Boswell plant?

A. It could have been on the road or at the Boswell plant.

Q. I see.

And was Mr. Gordon Hammond riding in your car with you? A. Yes, sir.

(Testimony of O. L. Farr.)

Q. All right.

Now, tell us what was said about unionization? [324]

A. He spoke about some of the boys, the ginners working at 50 cents an hour in the seed house and he also asked me what the boys was getting in these plants where they were union and working hours of 8 hours and I told him that a man could do more work in 8 hours than he could in 12 and that they was paying better wages at the Bakersfield plant for 50 cents a load at the Bakersfield plant and was working 8 hours.

Also, I understood that all other plants was on 8 hours, practically all other plants in the Valley was on 8 hours.

Q. All right.

Now, what did he say to that?

A. Well, he didn't say. He didn't say that he would or wouldn't. I told him the work—that was a question he asked me and that is what I told him.

Q. Did he tell you why he was asking you that question? A. No, sir.

Q. Had you, prior to that time, told Mr. Gordon Hammond that you were attempting to organize the American Federation of Labor Union in the Boswell plant at Corcoran?

A. I hadn't told anybody and I hadn't been.

Q. Well, had you told Mr. Gordon Hammond that you had had conversations with Mr. Prior from Wilmington—

(Testimony of O. L. Farr.)

A. (Interrupting): No, sir.

Q. (Continuing): —In Los Angeles County? [325]

A. No, sir.

Q. Concerning the organization of the American Federation of Labor union?

A. He didn't ask me.

Q. I see.

So you don't know why it was that Mr. Hammond asked you about conditions which were then prevailing in July or August of 1938 in other cotton ginning establishments in which the employees had joined the union?

A. Yes. There was considerable union talk about the plant here among the employees.

Q. But you don't know why it was that Mr. Hammond asked you about it? A. No, sir.

Q. And was that the extent of that discussion?

A. Yes, sir.

Q. All right.

Q. During the August 1938 discussion, Mr. Farr, to which you have testified at some length, was there anything said by Mr. Gordon Hammond concerning your having approached two of the Mexican workers in the Boswell plant in the lint room, I believe, with applications to join this union, the names of which workers were Manuel Escabedo and his brother, whose name doesn't appear on this charter?

Mr. Mouritsen: I object to the question as com-

(Testimony of O. L. Farr.)

pound and [326] involved. I haven't been able to follow it myself due to the interruption. May I have it read?

Trial Examiner Lindsay: Yes, you may have it read.

Mr. Clark: Very well.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: And may I add to the question, "or Peter Galvan."

The Witness: Mr. Hammond said that he couldn't understand those Mexicans very well and it might be that he misunderstood it and that is what Mr. Hammond said to me.

Q. (By Mr. Clark): What was it that Mr. Hammond said to you, Mr. Farr, on that subject matter, if anything? Namely, with respect to you having asked these Mexicans to sign up with the union?

A. He asked me about carrying the book, the receipt book.

Q. I see.

A. Which I hadn't.

Q. And then what was it that Mr. Hammond said to you after you had told him that you hadn't carried a receipt book?

A. He says, "I might have not understood those Mexicans, or I can't understand this very well. I might have misunderstood those Mexicans, for I can't understand them very well."

Q. Well, did he tell you what the Mexicans,

(Testimony of O. L. Farr.)

what he understood the Mexicans to have told him in that regard? [327]

A. No, sir.

Q. Didn't he tell you that the Mexicans had come to him and said that you had represented to them, in asking them to sign up in this union, that if they would sign this paper they never could be laid off? A. No, sir.

Q. Mr. Hammond made no such statement as that, is that true? A. That is true.

Q. You have no recollection on that at all?

A. No recollection on that at all.

Q. Now, when was it in the fall of '38 that you took a trip back to Oklahoma?

A. Approximately the 26th of September, I believe, '38.

Q. And you were away for how long?

A. I think I returned on the 15th of October.

Q. And you then went back to work at what position? A. Ginner.

Q. And worked at that occupation, that position, until the morning of November 18, 1938, is that right? A. Yes, sir.

Q. Now, let us go for a moment to the morning of November 18th. As I understand it, Mr. Farr, you were working at your gin as usual until about 10:00 o'clock when the machinery shut down?

A. Yes. [328]

Q. In some of the gins? Is that right? Did somebody shut off all the machinery in the plant?

(Testimony of O. L. Farr.)

Mr. Mouritsen: Objected to as compound and unintelligible.

Mr. Clark: I will withdraw it.

Q. I will ask you what happened in that regard.

A. Well, I can only state in my own gin.

Q. I am only asking concerning your own gin. It was shut down? A. Yes.

Q. And by whom?

A. Bill Robinson and I.

Q. You both shut it down?

A. Yes, sir; at his request.

Q. I see. Bill Robinson asked you to shut it down saying that there was going to be a meeting of employees, is that true?

A. Didn't say anything about employees, I don't think. He said there was going to be a meeting to see about the union.

Q. I see. And so when he told you that and did his part toward shutting the gin down, you proceeded to shut off your part of the machinery, is that right?

A. He shut off the part of my—my part of it—I was operating the machinery. He shut off some of the motors, two or [329] three motors, probably three, and he helped me raise up the gin stand. [330]

Q. I see.

Is raising up the gin stand part of the operation of shutting the gin down? A. Yes, sir.

Q. And he helped you do that?

A. Yes, sir.

(Testimony of O. L. Farr.)

Q. You were in agreement, so far as shutting down the gin and going to the meeting, weren't you?

Mr. Mouritsen: Objected to as vague and indefinite, and unintelligible.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: I will sustain the objection.

Q. (By Mr. Clark): Did you make any objection to Mr. Robinson so far as shutting down your machine is concerned?

A. No, sir, I didn't. That was his orders, and he was the fellow that had told me to shut it down before on different occasions.

Q. You did what he said? A. Yes.

Q. And then you left your gin and went to where the crowd was, is that right?

A. Just outside of the gin door in the back, the side door.

Q. And after the discussion which you have described in your direct examination, these three employees whom you have named, took Mr. Spear by the arms and walked him over to the Superintendent's office, is that true? [331]

A. Three, one was behind at his back, one at each arm, and forced him out.

Q. Was any force used on you?

A. No, sir.

Q. Did you do any talking at the meeting?

A. Just—I answered the first questions.

Q. And what were they, please?

(Testimony of O. L. Farr.)

A. Jack Ely asked me the first question, I believe.

Q. And what was said?

A. He said, "We want to know about this damned Union."

Q. What did you say to that?

A. I asked him, "What about it?"

Q. What did he say to that?

A. He asked if—why did we want to turn against the Company that we were working for; that the Company didn't want any Union there, and he didn't see why we wanted to turn against the Company. And he asked who the president was.

Q. Didn't you tell him at that time that Mr. Gordon Hammond had told you that the employees had a right to do as they wanted, so far as joining a Union is concerned?

A. No, sir.

Q. You didn't make any reply to that effect?

A. No, sir.

Q. Prior to that time, had you told Mr. Ely that you had join- [332] ed a Union?

A. I don't remember whether I told him or not.

Q. As a matter of fact, Mr. Farr, as early as July you had furnished a list of employees, a list of names, to Mr. Prior for the purpose of sending invitations out to them to attend the Union meeting, hadn't you?

A. No, sir, I had given them to him by Mr. Gilmore's request. Mr. Gilmore got the names and handed them over to me, and I turned them over to Mr. Prior.

(Testimony of O. L. Farr.)

Q. A list of employees had been turned over to Mr. Prior, isn't that right? A. Yes, sir.

Q. And do you remember approximately when that was? A. I do not.

Q. All right.

After this list of employees' names had been turned over to Mr. Prior, a meeting was in fact called, of employees of the Boswell Company, for the purpose of inviting them to join the American Federation of Labor Union, isn't that true?

A. I heard of it. I wasn't there. I was working. I heard that they were. That is all that I can testify to.

Q. Whom did you hear that from?

A. I heard it from men—the employees.

Q. That they had attended the meeting; is that right?

A. That they was going to attend the meeting, I believe. [333]

Q. All right.

Do you remember about when that meeting was set for? A. I do not.

Q. Was it in the month of July, 1938?

A. I—it seems like it was. I wouldn't testify it was.

Q. As a matter of fact, you were discussing the organization of a Union in the Boswell plant with Mr. Prior and Mr. Martin straight along from the month of March, 1938, all through that year, weren't you?

(Testimony of O. L. Farr.)

A. Not in the Boswell plant.

Q. Well, where did you propose to organize it?

A. At meetings.

Q. Well, of whom did you propose to organize this Union? Of what people?

A. Of the employees.

Q. Of the Boswell plant; isn't that right?

A. Yes.

Q. Will you please answer so the reporter can get it? A. Yes, sir.

Trial Examiner Lindsay: Mr. Attorney, I think the point that you and he are at loggerheads on is that in your question you gave him, you indicated that he was talking about organizing among the employees, while at work in the plant.

Mr. Clark: I didn't mean that at all.

Trial Examiner Lindsay: That is what your question indi- [334] cated.

Mr. Clark: We will clear that up.

Q. As a matter of fact, as early as March, 1938, you were having meetings or conversations with Mr. Prior, Mr. Martin, sometimes at your home and sometimes elsewhere, regarding the organization of an American Federation of Labor Union to which you intended to attempt to have the Boswell employees join; isn't that true?

A. After the 2nd of September.

Q. Well, do I understand—

A. (Interrupting): 1938.

Q. (Continuing): —do I understand that you

(Testimony of O. L. Farr.)

had no such meetings with Mr. Prior or with Mr. Martin in an attempt to organize this Union prior to September 2nd?

A. Not to organize the Union. With Mr. Martin I never named it to him until September 2nd.

Q. Did you have any meetings with Mr. Prior before September 2nd of 1938?

A. He was at my place, I will say, a couple of times.

Q. And at the times when he called at your place, didn't you discuss the organization of this Union to which the employees of Boswell's would belong?

A. The first time he came he asked me the name of the Superintendent and the General Manager.

Q. And when was that, about? [335]

A. I would say March of '38.

Q. I see.

A. And he left and went to the plant and returned in about an hour.

Q. Now, on that occasion, didn't he tell you that he intended to organize an American Federation of Labor Union for the employees of the Boswell plant, isn't that right?

A. I don't believe at that time he did.

Q. Didn't you discuss anything at all about that?

A. Yes, we talked of it, the working conditions. He asked me and I told him the hours we worked and the hourly wage we drew an hour.

(Testimony of O. L. Farr.)

Q. And do you know how Mr. Prior happened to come to your house to find out the name of the Superintendent of the Boswell plant?

Mr. Mouritsen: That is objected to as immaterial.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: He may answer.

The Witness: He came with my brother.

Q. (By Mr. Clark): With your brother who was the head of a similar Local in Bakersfield, isn't that right? A. Yes, sir.

Q. All right.

Now, what other meetings did you have prior to September 2nd with Mr. Prior, concerning the organization of a Union to [336] which the Boswell employees were to belong?

A. It seems like he was back in the Summer, sometime.

Q. Didn't he come back for the purpose of holding this July meeting which we mentioned sometime ago, and to which you delivered the Gilmore list of names of employees?

A. That is right.

Q. Isn't that right?

A. Yes. He came back. That is the time he came back—April and September—he came back at that time.

Q. You didn't go to the meeting yourself, did you, because you were working?

A. Yes, sir, I was working.

(Testimony of O. L. Farr.)

Q. All right.

After the meeting, did you discuss it with Mr. Prior, that is, the success which had been made?

A. No, sir.

Q. The success of it?

A. No, sir, not until September.

Q. Well, did you have any further discussion with Mr. Prior at all about organizing an American Federation of Labor Union in the Boswell plant, or joining it yourself until September?

A. I don't recall of any time. I don't know whether the 2nd or not. It might have been possibly that.

Q. Do I understand that during that entire time, you had no such meetings with Mr. Prior at your house, that is, from [337] July clear on to until the 2nd of September?

A. I can't remember of it. I can't testify to that, for I don't remember of anything up until about that time.

Q. Did you discuss with any of the persons, if any, who attended the July meeting called by Mr. Prior, what happened at that meeting?

A. I don't believe I did.

Q. Did you hear anything at all about it?

A. Well, I heard some of the boys—the next morning; I heard Frank Gonder the next morning who relieved me on my job—he came back and said that he went to the meeting and he had just made a monkey out of the organizer.

(Testimony of O. L. Farr.)

Q. That he made a monkey out of Mr. Prior; is that right? A. Yes, sir.

Q. What did you say to that?

A. I said, "Did you?" or something that way.

Q. Well, from time to time, didn't you discuss with other employees at Boswell's the advisability of their joining this Union?

A. No, sir, not until September.

Q. And after September 2nd, you did then start to talk to them about it, didn't you?

A. At meetings.

Q. Well, what meetings?

A. Meetings that were called by the members. [338]

Q. Well, what meetings were there other than that of the morning of November 18th?

A. We had meetings at nights.

Q. Oh, you mean meetings of the members of your Union? A. Yes, sir.

Q. Of your Union? A. Yes, sir.

Mr. Clark: Does your Honor wish to take a recess at this time?

Mr. Mouritsen: Mr. Examiner, this witness is supposed to start work about 12:00 or 1:00 o'clock, as I understand it. Is that right?

The Witness: Yes.

Mr. Mouritsen: So if we could, I would like to finish with him.

Mr. Clark: I don't think I could possibly finish with him in that length of time. I am awfully

(Testimony of O. L. Farr.)

sorry, but there was no mention made of that when we started cross examination.

Mr. Mouritsen: Well, then, you will have to return, Mr. Farr, this afternoon.

Trial Examiner Lindsay: You may have all of the time necessary.

We will adjourn until 2:00 o'clock. When the various witnesses take the witness stand, after they have taken the witness stand I don't want them discussing this case with [339] others outside of counsel, until they are through with the examination. That will apply—that rule will apply all of the way through this hearing.

Mr. Clark: I understand, your Honor.

(Whereupon, at 12:00 o'clock M., a recess was taken until 2:00 o'clock P. M. of the same date.) [340]

After Recess

(Whereupon the hearing was resumed, pursuant to recess, at 2:00 o'clock p. m.)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Are you ready, Mr. Examiner?

Trial Examiner Lindsay: Yes.

O. L. FARR,

the witness on the stand *of* recess, having been previously duly sworn, resumed the stand and further testified as follows:

(Testimony of O. L. Farr.)

Cross Examination

(Continued)

Q. (By Mr. Clark): Now, Mr. Farr, I believe you stated this morning that prior to September 2nd of 1938 you hadn't solicited any applications for membership in the union among employees of the Boswell Company? A. I hadn't.

Q. I see.

And was it on September 2nd that you joined the union yourself?

A. The best I remember the 2nd.

Q. Am I correct in stating that after September 2nd, then, you did approach certain employees of the Boswell Company with invitations to join your union?

A. I invited them to our meetings.

Q. I see. [341]

And I believe you told us this morning that those meetings, that is, your union meetings, were held from time to time at places off the company's property, is that right?

A. Off of the company's property.

Q. That is right. At night, at the homes of yourself and other persons, isn't that true?

A. Yes, sir.

Q. All right.

Now, did employees of the company come to any of those meetings? A. Yes, sir.

Q. And as a result—withdraw that.

Did you attend any meetings on the property of

(Testimony of O. L. Farr.)

the company with Mr. Hammond, Mr. Gordon Hammond we will say, representing your union after September 2nd and before November 18th?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I will withdraw it because I can ask the question directly.

Q. You attended a meeting on the morning of November 17, 1938, Mr. Farr, in the office of Mr. Gordon Hammond at which were present Mr. Prior, yourself, and Mr. Martin and Mr. Gordon Hammond, isn't that so?

A. In the office; not in Mr. Hammond's office, but in the Boswell office. [342]

Q. All right. Whose office was it, if not Mr. Hammond's?

A. I do not know, but I know it wasn't Mr. Hammond's office. I know his office.

Q. In other words, it was in the administration building, is that right?

A. In the office.

Q. In the office building? A. Yes.

Q. Will you please tell us what time of day that meeting was held?

A. In the forenoon. I can't recall the time.

Q. Well, it was after the plant had commenced operations for the day, wasn't it?

A. Yes. Mr. Hammond came out and got me on the job.

Q. Yes.

(Testimony of O. L. Farr.)

In other words, Mr. Prior had—withdraw that.
Someone—withdraw that.

Mr. Gordon Hammond came to where you were working some time during the forenoon of November 17 and asked you to come to a meeting which he was going to have with certain representatives of your union, isn't that right?

A. He didn't put it just exactly that way.

Q. Well, please tell us how he did put it. I wasn't there and I want your description of it.

A. He said—he come out—"Can you get away a little [343] while?"

I said, "Yes, if you send a ginner out here."

"The man is back here again, wants you boys to meet us out in the office," is the way Mr. Hammond stated it.

Q. And to whom did he refer when he said, "the man"?

A. Mr. Prior was the man that *were* there.

Q. I see.

Now, did Mr. Gordon Hammond likewise ask any other employee of Boswell, who is a member of your union, to attend that meeting?

A. They attended it. I suppose he asked them.

Q. All right.

Who else was there outside of yourself and Mr. Prior and Mr. Gordon Hammond? [344]

A. Mr. R. K. Martin and Mr. Lonnie Spear.

Q. And both of those gentlemen were at that time members of this Local Union, weren't they?

(Testimony of O. L. Farr.)

A. Yes, sir.

Q. All right.

Mr. Spear was the president, I believe?

A. Yes, sir.

Q. And what position, if any, did you hold with the Union? A. Vice-president.

Q. All right.

Now, was there anyone else present at this meeting, then, on the morning of November 17th outside of Martin, yourself, Mr. Prior and Mr. Gordon Hammond?

A. No, not that I recall. That was all.

Mr. Mouritsen: Did counsel name Mr. Spear in that?

Mr. Clark: I didn't. Mr. Spear.

Q. We have mentioned everyone who was there, isn't that right, within the last few minutes of your testimony? A. Yes, yes.

Q. All right.

Now, at that meeting, Mr. Farr, didn't Mr. Hammond, Mr. Gordon Hammond, state to the persons present whom you have just named that no one would be laid off from his work or discriminated against because he belonged to your Union?

A. I don't remember it just that way. [345]

Q. Well, how do you remember it, please?

A. (Pause.)

Q. I would like your version of that.

A. There wasn't anything said about the Union. We asked—someone asked him about it—was talking about the payroll being high.

(Testimony of O. L. Farr.)

Q. Talking about what? I didn't get it.

A. The payroll being high. He was using lots of help.

Q. The payroll being high? A. Yes.

Q. I see.

A. And that—and I believe that I says, "Well, what about going down to eight hours and letting everybody work?"

And he said, "Well,"—that he would take that up and let us know later.

Q. Let me interrupt you there, if I may, Mr. Farr, to ask you this: What do you understand the purpose or object of this meeting to be?

A. Well, to see why the members of our Union had been laid off on the previous day, the 15th.

Q. All right.

In other words, I am correct in stating, am I not, that the persons present at this meeting other than Mr. Gordon Hammond, were all representatives of your Union; that is, the Local Union, with the exception of Mr. Prior who is the secretary of [346] the Council which was instrumental in organizing your Local Union; isn't that right?

A. (Witness nods his head in the affirmative.)

Mr. Mouritsen: Let the record show the witness nodded his head.

Q. (By Mr. Clark): The answer is Yes?

A. Yes.

Mr. Mouritsen: May the witness be instructed to answer up audibly?

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: Yes. Answer the questions audibly.

Q. (By Mr. Clark): You understood the meeting to be one between Mr. Gordon Hammond as the representative of the Boswell Company, and representatives of your Union, isn't that right?

A. Yes, sir.

Q. For the purpose of discussing such matters as might be of interest to you on that occasion, isn't that right?

A. Yes, sir.

Q. Now, as a matter of fact, none of your men had been laid off prior to this meeting, had they?

A. Yes, sir.

Q. Who were they, please?

A. Boyd Ely.

Q. And when was he laid off, if you know?

A. The Fifteenth. [347]

Q. That would be two days before?

A. And Walter Winslow.

Q. That is two.

When was he laid off?

A. The fifteenth, if I recall, approximately the fifteenth. [348]

Q. And who else, please?

A. That is all I recall.

Q. All right.

Am I correct in stating that Mr. Gordon Hammond said on that occasion that gin No. 4 was about to be shut down because of the lack of any further need for it and that it might be that some

(Testimony of O. L. Farr.)

of your people were employed on that gin in which connection he told you that he didn't know who belonged to your union?

Mr. Mouritsen: I will object to the question on the ground it is vague and indefinite. It is compound. It doesn't permit an intelligible answer.

Mr. Clark: I think it does, but it is complex, Mr. Examiner, and I will withdraw it.

Trial Examiner Lindsay: Yes. Try to make the questions a little shorter.

Q. (By Mr. Clark): Did Mr. Hammond say anything about intending to shut down gin No. 4 within the next few days?

A. I don't know as he named gin No. 4, but he talked of there being a gin shut down in the near future.

Q. All right.

In other words, didn't he tell you there wasn't any further need to keep at least more than one of the gins in operation and that it would probably be shut down in the near future? Isn't that right? [349]

A. I don't know as he said either that or not having as long hours ginning. We had been ginning 16 hours and we got down to 12. He thought possibly that the hours would come down, and there wouldn't be enough cotton, and we wouldn't run the gin if the cotton wasn't there.

Q. What did he say concerning the possible shutting down of any gin?

(Testimony of O. L. Farr.)

A. I don't remember what he said, but he talked of shutting down the gin or cutting down on the hours.

Q. Now, during that conversation did Mr. Hammond likewise state to you gentlemen, that is, Mr. Prior, yourself, Martin, and Spear, that he didn't know who your members were?

A. As I recall, he possibly—he asked us, I believe, at that time, who they were.

Q. And in response to his question, that is, Mr. Gordon Hammond's question in that regard, didn't your Mr. Spear say that he would furnish Mr. Hammond with a list of members?

A. I don't remember that.

Q. Do you remember any talk at all about a list of members being furnished to Mr. Gordon Hammond so he would know who the members of your union were?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial, compound, doesn't—

Mr. Clark (Interrupting): I will submit that.

Trial Examiner Lindsay: You may answer, if you under- [350] stand it.

Mr. Mouritsen: Mr. Examiner, here is the situation: It is a double question.

Mr. Clark: I withdraw the question.

Q. Was there anything at all said that you remember now about any list of your members being furnished to Mr. Hammond?

A. I don't recall myself—or anyone else—I don't

(Testimony of O. L. Farr.)

recall myself of that, but there was quite a bit said there that I may not recall. I recall what I said, but recalling what someone else said, I can't do it.

Q. Do you remember Mr. Hammond stating to you on that occasion that it had already been necessary to lay off some men because of lack of work and that maybe some of your members were among those laid off?

A. Well, I don't know. I don't remember that statement.

Q. Would you say that statement was not made by Mr. Hammond at that time?

A. I wouldn't say it was not made, but I can't recall it at this time.

Q. Do you remember Mr. Prior saying to Mr. Hammond that it was against union rules to furnish a company with a list of its employees who belonged to the union and, therefore, that would not be done in this case?

A. I can't recall that.

Q. Would you say that statement was not made by Mr. Prior [351] during this conversation?

A. I would say that I didn't hear it if it was made. I can't testify that I heard that question.

Q. Well, do I understand then, Mr. Farr, that you have no recollection at all concerning any conversation regarding the company, that is, the Boswell Company, through Mr. Gordon Hammond, being informed of who your members were?

A. No, Mr. Hammond has never asked me per-

(Testimony of O. L. Farr.)

sonally or in any other way who the members were. He never did ask me.

Q. No. I am asking you whether he asked the group representing your union collected at this meeting who the members were, or whether any of the statements that I have called your attention to were made.

Mr. Mouritsen: I object to that last, Mr. Examiner. Obviously counsel has made any number of statements, and how the witness is to single out— [352]

Mr. Clark (Interrupting): I will reframe the question.

Q. Do you remember anything being said at the conversation that we are now discussing, by Mr. Gordon Hammond, by way of a request for information concerning who your members were?

A. I do not.

Q. Nothing at all, is that correct?

A. That is true.

Q. You don't remember Mr. Prior making any response to any such request, or Mr. Spear making response to any such request, is that right?

A. I don't recall it.

Q. All right.

Do you remember, though, Mr. Farr, at this conversation in the morning of November 17th that Mr. Hammond told you that in order to keep the gins going for a few more days, or in order to stretch out the work, he would, on the next day, start two

(Testimony of O. L. Farr.)

of the gins at 6:00 o'clock in the morning, the usual starting time, and shut them down at 3:00 in the afternoon and start the other two at 10:00 o'clock in the morning and shut them down at a later hour in the afternoon? A. He did not.

Mr. Mouritsen: Mr. Examiner, I move that the answer be stricken until I have an opportunity to have the question read.

Mr. Clark: Let us have it read. The answer may go out. [353]

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: May I ask that you make your questions single and shorter?

Mr. Clark: I am doing the best I can, Mr. Examiner.

Trial Examiner Lindsay: Take one at a time, one section of it at a time.

Mr. Clark: I am doing the best I can. I will endeavor to simplify it as much as I can.

Mr. Mouritsen: I object to the question, Mr. Examiner, as it is too compound. It isn't a fair question to present to a witness. It is too involved. I can't follow it myself, and I am sure that the witness would have difficulty also. It *it* is too much of a strain for him to answer four or five questions all in one.

Mr. Clark: I don't think this witness is under any strain, Mr. Examiner. I submit the objection.

Trial Examiner Lindsay: Wait a minute. We

(Testimony of O. L. Farr.)

are not to have any of this talking back and forth. I kindly requested that you make your questions shorter and have them single questions rather than double questions. I think that is a fair request.

Mr. Clark: Mr. Examiner, I am simply asking for a statement made by Mr. Gordon Hammond, and that is a single question.

Trial Examiner Lindsay: You can cut that down into two [354] sections very easily, one at a time. If you don't want to do that he may answer.

Mr. Clark: I will reframe the question, Mr. Examiner.

Q. At this meeting on the morning of November 17th, was there anything said by Mr. Gordon Hammond concerning the manner in which the gins would be operated on the following day?

A. No, sir.

Q. You are sure of that?

A. I will tell you what he said.

Q. Perhaps you didn't get the question in mind. I will ask that it be re-read to the witness.

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark): Now, have you the first question in mind there? Let us hear what he said.

A. He said that he would check into it and let us know later.

Q. Didn't he at that time tell you that he would start only two of the gins at 6:00 o'clock?

(Testimony of O. L. Farr.)

A. No, sir.

Q. The following day? A. No, sir.

Q. Didn't he at that time tell you that he would start the remaining two of the gins at 10:00 o'clock?

A. No, sir. [355]

Q. On the following day?

A. No, sir. [356]

Q. And didn't he, with respect to those statements made to you and Mr. Prior and Mr. Farr and Mr. Martin, on that occasion state that he would do those things so as to attempt to stretch the work out for a few more days?

Mr. Mouritsen: Mr. Examiner, I object to this question on the ground it is vague and indefinite. If counsel will talk with respect to a certain statement or statements made to this committee—
(Pause).

Mr. Clark: I will withdraw that question.

Q. On the occasion under discussion, namely, November 17, didn't Mr. Gordon Hammond say to you and the other gentlemen representing your union, that he would do his best to stretch the work out for a few more days?

A. He said he would let us know in the near future.

Mr. Clark: Now, may I ask that that answer go out, Mr. Examiner, and that the question be re-read to the witness so he can get it in mind and answer it?

Trial Examiner Lindsay: I think the question

(Testimony of O. L. Farr.)

has been answered now two or three times and the witness, I believe, has tried to give you the answer as to what was said.

Proceed.

Mr. Clark: All right.

Q. You didn't then, after the meeting of November 17th, state to any of the other employees at Boswell, that your union had succeeded in cutting the hours down and that they [357] had better join up? A. No, sir.

Q. And you didn't make any such statement as to that to Mr. Bill Robinson, I take it?

A. No, sir.

Q. Now, let us go back to the meeting of November 18, or the episode, we will call it, of November 18th, where we left you this morning.

Now, as I understand it, Mr. Farr, after you had left the gin where you were working on the morning of November 18th and after the gin had been shut down, you found yourself, or, rather, you went to a gathering of 60 employees of the company, is that right?

A. Well, I don't say—

Q. (Interrupting): Well, 60 or 70 or 80?

A. I will say 60 or 70 men.

Q. Yes, that is what I mean.

And I believe I asked you this morning whether you took any part in the conversation which occurred at that time in the presence of all of these people.

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: Yes.

(The pending question was read by the reporter, as follows: [360])

“Q. I think I got as far this morning, Mr. Farr, as having you tell us that Robinson asked you, or rather, stated to you that now they were going to find out about your damn union. Is that the statement that was made?”)

Trial Examiner Lindsay: Now that question is a misstatement of fact. The witness testified that Jack Ely is the one that made that statement to him. Now let us try and follow his testimony.

Mr. Clark: Very well. All right. Now I think I can start from there.

Trial Examiner Lindsay: I don't want facts misquoted. [361]

Mr. Clark: I am certainly not mis-quoting the record deliberately. That is why I asked the question to try to get the facts out of the witness.

Trial Examiner Lindsay: Quit arguing about it. I am just merely telling you what I want, and proceed under those orders.

Q. (By Mr. Clark): It was Ely that made that statement then, was it? A. Yes, sir.

Q. Now, at that time, Mr. Farr, in this gathering of some sixty men, was anything said to you by Mr. Ely or any other participant in the conversations which occurred there concerning the fact that two of the gins had not commenced operations that morning at 6:00 o'clock?

(Testimony of O. L. Farr.)

A. No, sir. There wasn't nothing said by Mr. Ely to me.

Q. Was there anything said by anyone else at that general meeting, to you or in your hearing, on that subject?

A. I couldn't say what was said. I didn't hear it myself; didn't hear anything of that kind.

Q. Was there anything said by anyone during the conversations which took place on this occasion concerning the meeting of the morning before, namely, November 17th, between you and Mr. Prior and Mr. Spear and Mr. Martin and Mr. Gordon Hammond?

A. No, sir, not that I heard.

Q. Absolutely nothing? [362]

A. Nothing said to me.

Q. Anything said that you heard?

A. I never heard anything.

Q. All right.

I take it that nothing was said in your hearing concerning the fact that such a meeting had taken place, isn't that right? A. Yes, sir.

Q. Now, was anything said during this general meeting on the morning of November 18th concerning the fact that your union or its representatives had prevailed upon Boswell Company to shorten the hours and divide the work up among more men?

A. I don't recall that. I don't remember that.

Q. Will you please tell us then what, if anything,

(Testimony of O. L. Farr.)

further than you have testified to was said to you on that occasion, and what response, if any, you made?

Trial Examiner Lindsay: Is this on the 18th?

Mr. Clark: Yes, anything further than what he has testified to.

The Witness: I testified to that. The record will show I testified to that, up until the time I got home, before noon.

Q. By Mr. Clark: Please tell us whether anything else occurred at that meeting other than you have told us on your cross examination this morning? A. Not that I——

Q. (Interrupting): Which is the conversation between you and [363] Mr. Ely about the Union?

A. No, sir.

Q. That is all that happened?

A. Yes, sir.

Q. Now, while you were standing there, though, Mr. Spear tried to make a speech, did he, to the assembled employees and other people?

A. Yes, sir.

Q. And what did Mr. Spear say?

A. I couldn't state what he said. There was too much noise and racket and confusion.

Q. What was the burden of what he tried to say?

Mr. Mouritsen: Do you understand the question?

A. By Mr. Clark: What was the gist of what he tried to say?

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: I think the witness has said he couldn't answer.

Mr. Clark: He said he couldn't answer what was said, but he may know what the general effect of it was.

The Witness: I can't repeat that.

Mr. Clark: All right.

Q. Now, as a result of all this, then, all of you went over to Mr. Gordon Hammond's office, as you described this morning, isn't that right?

Mr. Mouritsen: I object to that "all of you," as it is [364] too vague and indefinite. I believe counsel——

Mr. Clark (Interrupting): I am not going to go back through and ask him who went over, but in any event, Mr. Spear, as you testified this morning, was taken over there by certain employees of the Boswell Company, and you and some other gentleman followed them, isn't that right?

The Witness: That is right.

Q. By Mr. Clark: All right.

Now, no force was used, so far as you were concerned, to take you over to the superintendent's office, was there?

A. There was one fellow in the crowd who spoke up and said that he was going to take me, and I told him to keep his hands off me, that I would go; for him to keep his hands off me.

Q. Who was that fellow? A. Winslow.

Q. Which Winslow? What is his first name?

(Testimony of O. L. Farr.)

A. I don't know. It was a Winslow that works in the feed lot, or something.

Q. He worked in the feed lot?

A. Yes, over around the feed department somewhere.

Q. I see.

What did Winslow say to you in this connection?

A. He said, "Get on out of here, get to going. I am going to put you out."

He started over and—him and another fellow, too—I [365] asked them to keep their hands off me.

Q. And then they kept them off? Did they?

A. They did.

Q. All right.

Now, what other members of your Union went over with you?

A. I testified to that in the record once.

Trial Examiner Lindsay: You may answer again.

Q. By Mr. Clark: Let us have them, please?

A. Mr. Spear was in the office.

Q. Yes. A. Mr. Martin.

Q. Yes.

A. Mr. Wingo, Mr. George Andrade and myself, and I don't recall anyone else.

Q. All right.

How about Mr. Briley; did he go along?

A. I don't remember.

Q. Joe Briley?

A. He went out. I don't know whether he went along to the office; I don't remember.

(Testimony of O. L. Farr.)

Q. By the way, is he still a member in good standing of your Union?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained. [366]

Mr. Clark: May I state, if it please your Honor, I will submit that the record will show that Mr. Briley is still employed by this Company before we get through. I can't prove it all at once. I promise to connect it up.

Mr. Mouritsen: It is not within the issues of this case whether any of the members are in good standing or not.

Mr. Clark: Well——

Trial Examiner Lindsay (Interrupting): Sustained.

Mr. Clark: All right.

Q. Is Mr. Briley a member of your organization?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit that.

Trial Examiner Lindsay: Sustained.

Q. By Mr. Clark: Did either of these Mexican employees go along with you over to the superintendent's office?

Mr. Mouritsen: Objected to as vague and indefinite.

Q. By Mr. Clark: Either Mr. Escabedo, Manuel Escabedo, or Peter Galvin?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: He may answer.

The Witness: To my recollection, they weren't employed that day.

Mr. Clark: I see. [367]

Q. Was Martin employed at that day?

A. Yes, sir.

Q. And how about Wingo? Was he employed there at that time? A. Yes, sir.

Q. All right.

Now, I suppose that when you arrived at the superintendent's office, everybody was talking at once; isn't that true?

A. Well, not so bad, no.

Q. Not so bad?

A. When we got to the office, there wasn't much said.

Q. Who did you see at the office, Mr. Gordon Hammond? A. No, sir.

Q. Mr. Louie Robinson? A. Yes, sir.

Q. He is the general manager of the plant, isn't he? A. Yes, sir.

Q. And when you got over there, when you arrived at Mr. Robinson's office, did anyone demand of him that you Union men be discharged?

A. Yes, sir, I heard that demand. [368]

Q. I see.

And what, if anything, did you or any representative of your union say in response to that?

A. We didn't say anything.

Q. Was Mr. Gordon Hammond there at that time? A. No, sir.

(Testimony of O. L. Farr.)

Q. And then Mr. Robinson said to you, to everyone there, "Now go back to your posts. You are all excited. Go back to your work and I will straighten this out later."

Isn't that right?

A. That is not exactly the way he said it.

Q. Let us have it exactly as he said it as near as you remember it.

A. As near as I remember it, he said, "Go back and start the machinery. I will be out right away."

Q. He didn't say then that you were all excited and to go back to work and cool down and that he would straighten it out later?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I have that right, may it please the Examiner, and I will submit it.

Trial Examiner Lindsay: Sustained.

Q. By Mr. Clark: Did he say anything else that you can remember at this time? [369]

A. No, sir.

Q. As a result of that you then went back to your stations? A. Yes, sir.

Q. And within a few minutes I believe you told us that some employees appeared as a result of which you and some others left the company property and went home, is that right?

A. Yes, sir.

Q. Now, who all, to your knowledge, left the company property at that time?

A. Mr. Wingo and I went out together.

(Testimony of O. L. Farr.)

Q. Well, how about Martin? Did he leave?

A. I don't know when he left, but he was up at my—stopped at my house shortly after I got there.

Q. Now, who else, if anyone?

A. Well, Mr. Spear.

Q. There is more. Who else, please?

A. Oh, a half an hour later Mr. Powell came. Mr. Powell came in.

Q. Is Mr. Powell a member of your union?

A. Yes, sir.

Q. Who else, please? A. Mr. Andrade.

Q. And is Mr. Andrade a member?

A. Yes, sir.

Q. And who else, please? [370]

A. Mr. Briley, Joe Briley.

Q. Joe Briley? A. Yes, sir.

Q. And is he a member?

A. Yes, sir. At that time he was a member of our union.

Q. Isn't he a member now?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Q. By Mr. Clark: Who else, please?

A. That is all I recall.

Q. Now, did you on this second occasion of employees of the Boswell Company approaching you concerning your belonging to a union go back to Mr. Robinson and tell him about that?

Mr. Mouritsen: Objected to as vague and indefinite.

(Testimony of O. L. Farr.)

Mr. Clark: Withdraw it.

Q. Before you left the plant to come home on the morning of November 18th, did you go back and tell Mr. Robinson that these other employees had persisted in molesting you?

A. No, sir; I called him over the telephone.

Q. I mean, before you left the plant?

A. No, sir.

Q. To your knowledge had any of the people that you have just named gone back to Mr. Robinson and told him that the employees were not letting you union men alone? [371]

Mr. Mouritsen: Objected to as calling for hearsay testimony on behalf of the witness.

Trial Examiner Lindsay: He may answer.

The Witness: Not that I recall.

Q. (By Mr. Clark): In other words, when you went back to your job and started your machine up and these employees approached you the second time, you simply went on home, is that right?

A. When the foreman of the company came out and they shut the machine down, I thought it was time to leave.

Q. You are talking about Bill Robinson?

A. And Tommy and Joe Hammond.

Q. Did you attend a meeting at Mr. Robinson's office the following morning, namely, November 19th?

A. I did not.

Q. You knew that meeting was going to take place, though, didn't you?

A. I don't recall that I knew that that meeting was going to take place. I don't recall.

(Testimony of O. L. Farr.)

Q. Did Mr. Prior or anyone who was present at that meeting report what happened to you after this had taken place?

A. I knew that they were down there,—later, but I don't know that they reported. I don't recall what they reported.

Q. Did you ever find out what happened at the meeting that was held between Mr. Prior and Mr. Robinson on the morning of [372] the 19th, which is the morning following the things you have testified to? A. Yes, sir.

Q. All right.

Who else from your union was present at that meeting, if you know? A. I don't recall.

Q. Well, isn't it a fact that certain representatives of your local, together with Mr. Prior, went down and called upon Mr. Robinson on the following morning, that is, November 19th, concerning the matters which had happened the day before?

A. Yes, sir.

Q. Weren't you told by Mr. Prior subsequent to the meeting of November 19th that you were still being carried on the payroll of the Boswell Company and that you could go back to work any time you chose? A. No, sir. [373]

Q. You were still carried on the payroll, weren't you?

A. For a few days, yes, sir.

Q. You were carried on until December 3rd, the end of that week, weren't you?

(Testimony of O. L. Farr.)

A. Well, probably—I don't recall what day. I was carried on the payroll after that date.

Mr. Clark: May I have Board's Exhibit 3?

(The record book referred to was passed to Mr. Clark.)

Q. (By Mr. Clark): Well, didn't you even receive a payment, Mr. Farr, and I will let you look at the amount of it so that you can refresh your own recollection concerning it, didn't you even receive a payment for the week ending December 8th?

A. (Examining records) (Pause.)

Q. Look at that list of payments there. And may I particularly direct your attention to all of the payments which this Exhibit indicates as having been made to you continuously clear from November 17th to December 8th?

Mr. Mouritsen: Now, may I have that question in its entirety?

Mr. Clark: I said, may I call your attention particularly to all of the payments which the record indicates were made to the witness continuously from November 17th to December 8th.

It is not a question or a statement of fact. It is simply an attempt to direct his attention to a part of an Exhibit which is already in evidence. [374]

The Witness: I don't recall. I recall getting checks. I have a record of them. I haven't them with me, but I recall getting checks after the 18th.

(Testimony of O. L. Farr.)

Trial Examiner Lindsay: For a point of information right here, what period were those checks covering? What period of work, or time, rather, that you did work did those last checks that you received after the 18th cover?

The Witness: Well, it should have covered the time approximately after I was gone, after the 18th.

Trial Examiner Lindsay: In other words, that isn't for any work that you did after the 18th, is it?

The Witness: No, sir.

Q. (By Mr. Clark): Well, it is correct, though, isn't it, Mr. Farr, that it was for time after the 18th?

A. But not work. I suppose it was checks, but I didn't work.

Q. Here, let us see if we cannot straighten it out.

I will show you Board's Exhibit 3, and particularly the page entitled with your signature, Oliver L. Farr, and I want to direct your attention to the entry 11-17, which would be November 17th, \$32.00.

Now, that indicates, doesn't it, and by the way, this is the year 1938 as you will see right here?

A. Yes, sir.

Q. That indicates, doesn't it, the payment which you received for the work which you actually did during the week [375] ending November 17th, isn't that right?

A. That is right.

Q. Now, you worked all that week, didn't you?

(Testimony of O. L. Farr.)

A. Yes, sir.

Q. And you were working at a ginner?

A. Yes, sir.

Q. All right.

Now, you will notice that right after that is a payment of \$29.00 for—opposite, rather, the figures 11-24, you see? A. Yes, sir.

Q. Will you please state whether or not you received a check for \$29.00 or for some such amount, as nearly as you can remember, a week later?

A. I received a check, but I can't recall the amount.

Q. Now, that check you received wasn't paying you for any work you had done prior to November 17th, was it? A. No, sir.

Q. In other words, you had been paid up right to the time you left the plant except for whatever work you did on the 18th; isn't that right?

A. I was paid on the following Saturday.

Q. You don't understand my question.

On November 17th, when you got your weekly pay—

A. (Interrupting): I didn't get it that day.

Q. Well, whenever you got your \$32.00 check—

A. (Interrupting): On the last of the week. [376]

Q. All right.

It paid you up to the 17th, didn't it?

A. (Pause.)

(Testimony of O. L. Farr.)

Mr. Mouritsen: I object. If the witness knows. Mr. Robinson testified as to the payroll periods and, of course, this is all subject to his explanation of the manner of payment.

Mr. Clark: The things I am trying to get out is this: I think the Examiner misunderstood the question.

Trial Examiner Lindsay: I both misunderstood you, and the witness.

Now, is there a contention that this man worked for your Company after November 18th, 1938?

Mr. Clark: There is this contention—no, he didn't do any work, but there is this contention—but——

Trial Examiner Lindsay (Interrupting): Well——

Mr. Clark (Interrupting): Let me explain the answer.

Trial Examiner Lindsay: Let me finish what I want to get through first.

Now, in your question, which is misleading in the record, you said for work which you did after November 18th, 1938.

Now, I don't want to be misled on the facts and I know you don't intend to, and I want it in the record just exactly the way it is; regardless of how it is, I want it that way.

Now, I think I know what you are getting at, but your question is misleading, both to me and to the record. [377]

(Testimony of O. L. Farr.)

Mr. Clark: I think, Mr. Examiner, that when the record is written up you will find that my question is perfectly clear, and I would like to make this explanation with respect to it. We do not contend, and it is not the fact, that Mr. Farr actually performed any labor at the Boswell plant after he left on November 18th, but he was paid for a period ending December 8th, just as though he had worked; and upon the representation made—as will come out as part of our case—that these men who voluntarily quit on that day were carried along for the same length of time as they would have had they not left, depending on the amount of work left.

In other words, if there was work for them, they were paid for that length of time, which in his case was up to December 8th. And at all times, and this was the burden of the question I asked Mr. Farr a few minutes ago—they were told at all times that the jobs were there if they wanted them.

He in fact received payments up to December 8th for work which he never did. I won't go into that yet.

Mr. Mouritsen: Mr. Examiner, I am going to object very strenuously to this method of testimony on behalf of counsel purportedly in explanation of some——

Trial Examiner Lindsay (Interrupting): I will say this, I won't consider the statements of attorneys as to facts until the proof is in. [378]

(Testimony of O. L. Farr.)

When I asked for just a short explanation in a matter, I wouldn't go into the question of what you deem are facts because you are not under oath and are not testifying.

Mr. Clark: Very well.

May I see if I can't clear this up with one question, your Honor?

Trial Examiner Lindsay: Yes.

Mr. Clark: All right.

Q. Going back for a moment, Mr. Farr, it is correct, isn't it, that when you ultimately received the \$32 payment for the week ending November 17th, that paid up to and including the 17th for everything you had done for the company, isn't that right?

A. Well, I couldn't say, but I really think so.

Q. All right.

So that after you got that \$32 check, then you only had coming at any subsequent date just your pay for the 18th so far as any work that you actually performed is concerned?

A. That is right.

Q. All right.

You did, however, receive checks as shown by this record for the week ending the 24th, for the week ending December 1st and the week ending December 8th, didn't you?

A. I don't recall just exactly. I—just as I stated, I recall that I received some checks after I quit work. [379]

Q. I understand that.

(Testimony of O. L. Farr.)

A. After I was run out.

Mr. Clark: I move that go out. May that go out?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark): And is your recollection of that to the effect, Mr. Farr, that those checks were received by you for about two or three weeks after the time you left?

A. They wasn't as large checks as I had drawn—you can see here the checks come considerably down. I had been drawing \$42 and \$36 and considerably under \$40, and on down.

Q. You weren't doing any work during that time, were you? A. No, sir.

Q. Will you, then, answer me. Answer the question that I put to you.

Is it your recollection that you were still being paid for as long as two to three weeks after November 18th? A. Yes, sir.

Q. All right.

How did you obtain these checks? How did you get them physically?

A. I was down and got the one on the first Saturday, and if I recall, the rest of them were sent to me.

Q. Well, now, the first Saturday after November 18th would be when? [380]

A. The 19th I went down and got my check.

Q. That would be the following day?

A. Yes, sir.

(Testimony of O. L. Farr.)

Q. And, of course, you went on the company property to get it, didn't you?

A. I went to the office, the pay office.

Q. Yes.

And you found quite a few of the employees of the company around, didn't you?

A. I saw Mr. Hammond.

Q. That is, Mr. Gordon Hammond?

A. Mr. Gordon Hammond.

Q. I see.

And did you ask him for your check?

A. He handed me the check. He handed the check to me.

Q. Did you ask him at that time about coming back to work? A. Not at that time.

Q. Did you make any request to him at all to come back on the job? A. Yes, sir.

Q. I mean, on that occasion at that time?

A. Yes, sir.

Q. What did you say about that?

A. I told him I was ready to come back to work.

Q. This was on the morning of the 19th, is that true? [381]

A. It was later than the morning of the 19th.

Q. And about what time would you say?

A. It was some few days later.

Q. Oh.

I am only concerned with the time——

Trial Examiner Lindsay (Interrupting): He answered that. Didn't you ask him on that morning when he got his check?

(Testimony of O. L. Farr.)

Q. By Mr. Clark: When you came back to the plant on Saturday the 19th to get paid, nothing was said between you and Mr. Hammond at that time concerning your coming back on the job, is that true?

A. No, sir; I don't believe there was anything said.

Q. Did you receive a check at that time?

A. For my past week that I had worked.

Q. And that is the week ending the 17th?

A. Yes, sir.

Q. All right.

Now, the following week, then, the following Saturday you got another check, didn't you?

A. I——

Trial Examiner Lindsay (Interrupting): We have gone over that.

Mr. Clark: I wanted to find out if he went back to the company plant. [382]

Trial Examiner Lindsay: Ask him that.

Q. By Mr. Clark: Did you pick up the other checks there?

A. I don't recall that I did.

Q. How did you get them?

A. They were sent to me by Mr.—Mr. Yankee Robinson brought one of them, a bookkeeper in the office.

Q. You say you had another conversation with Mr. Gordon Hammond about coming back on the job, a few days after Saturday, the 19th, is that true?

(Testimony of O. L. Farr.)

A. Yes, sir.

Q. And where was that, please?

A. It was at the office.

Q. And who else was present?

A. I believe that Mr. Spear was sitting in the office talking to Mr. Gordon Hammond.

Q. What was the occasion at this meeting between Spear and you and Gordon Hammond?

A. They was in conference and I walked in. I didn't know Mr. Spear was there, and I walked to the door and Mr. Hammond came out.

Q. What was the purpose of your visit there to Mr. Gordon Hammond?

A. I was there—I had three hours' time coming that I had worked for on the week before.

Q. On the 18th, is that right? [383]

A. And—yes.

Q. Yes.

A. And I went down and to my best recollection my check had been sent to me; and I asked Mr. Hammond about coming back to work.

Q. All right.

What was the purpose of your calling on Mr. Hammond in the middle of the week? To get your pay on the 18th?

A. It wasn't in the middle of the week. It was the following Saturday on payday.

Q. Would that be the week following Saturday the 19th? A. Yes, sir.

Q. This wasn't on the 19th? A. No, sir.

(Testimony of O. L. Farr.)

Q. It was a week after the 19th? A. Yes.

Q. 26th—27th—26th, I guess.

Trial Examiner Lindsay: It was on the following Saturday after the 19th.

Q. (By Mr. Clark): Did you pick your check up then?

A. No, sir. Someone had already picked it up.

Q. That was Mr. Yankee Robinson?

A. No, that is not the check he picked up.

Q. Someone else had picked it up for you?

A. Yes. [384]

Q. But on going to Mr. Gordon Hammond's office you found there Mr. Spear? A. Yes, sir.

Q. Now, at that time did Mr. Hammond tell you that you could come back on the job any time you wanted to? A. No, sir.

Q. Are you sure of that?

A. Yes, sir; he said I could not.

Q. Give us the whole conversation there.

A. (Pause)

Q. Give us the conversation. Everything he said.

A. I walked to the door and Mr. Spear and he was sitting in his office, and I said, "Excuse me. I didn't know anyone was in here."

Mr. Hammond came out, and I asked him if I had a little check.

And he says, "Yes." And he looked for it, and it wasn't there, to the best that I recall.

I said—he said, "Is your name still O. L. Farr?"

And I said, "Yes. I haven't changed my name."

(Testimony of O. L. Farr.)

I said, "I am ready for work."

And he said, "Well, under these conditions we can't use you at this time."

He said that he had already told Mr. Farr that he couldn't use us fellows now. Mr. Prior had asked him and reported to [385] me that he couldn't use us any more.

Q. Mr. who had?

A. Mr. Prior had told us in a conference at the office that we couldn't go back to work, that—to be exact, he said they would feel out the sentiment of the men to see about us coming back to work.

Q. All right.

Was there any discussion at that time between you and Mr. Hammond respecting you and Spear going into farming for yourself?

A. Not at that time; no, sir.

Q. There had been some discussion of that, hadn't there?

A. I had talked—we had talked different times about farming.

Q. And your talks in that regard were with Mr. Gordon Hammond, weren't they?

A. Yes, and on one occasion I talked to him about farming.

Q. Well, didn't you—can you fix the time of that, please?

A. No, sir.

Q. Well, approximately for us.

A. Oh, it was about some time in the fall.

Q. Some time during that fall?

(Testimony of O. L. Farr.)

A. Yes, sir.

Q. And didn't you—was anyone else present when you talked [386] to him about you and Spear going into farming?

A. I didn't talk to him about Spear and I going into farming. [387]

Q. Well, did you talk to him about yourself going into farming?

A. I told him—I spoke to him about farming, the conditions of farming and how they farmed in this country.

Q. Didn't you tell Mr. Hammond at that time that you did not intend to stay with the Boswell Company, but you intended, together with Mr. Spear, to go into farming for yourself?

A. No, sir.

Q. The answer is No? A. No, sir.

Q. Did you have any conversation at all along that line with Mr. Gordon Hammond?

A. No, sir.

Q. At any time?

A. Not about going into the farming with anybody. I talked about farming.

Q. Well, did you tell Mr. Gordon Hammond that you intended to leave the Boswell Company and to establish yourself on a farm in this vicinity?

A. No, sir.

Q. Did you make that statement to Mr. Hammond at any time? A. No, sir.

Mr. Clark: That is all.

(Testimony of O. L. Farr.)

Mr. Mouritsen: No redirect. [388]

There is just one.

Redirect Examination

Q. (By Mr. Mouritsen): During the period that you worked for the J. G. Boswell Company, did you ever receive any complaints regarding your work?

A. No, sir.

Q. Did you ever receive any compliments regarding your work?

A. Yes, sir. Mr. Hammond told me when I went over to the Anderson & Clayton Company that my work was satisfactory with him.

Q. Was that the occasion when you left, I believe, during the month of July, '37 or '38?

A. Yes, sir.

Q. Which year was it? A. '37.

Mr. Mouritsen: '37.

Nothing further.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Mouritsen: We are now ready to put Mr. Prior on the stand for cross-examination.

Trial Examiner Lindsay: Would you like a little recess?

Mr. Clark: Yes, your Honor.

Trial Examiner Lindsay: We will have a ten minute recess.

(At this point a short recess was taken, after which proceedings were resumed as follows:) [389]

Trial Examiner Lindsay: Hearing called to order.

E. F. PRIOR

recalled to the stand by and on behalf of the National Labor Relations Board, having been previously duly sworn, was further examined and testified as follows:

Mr. Clark: Are you turning this witness over for cross-examination?

Mr. Mouritsen: Yes, Mr. Clark.

Mr. Clark: I suggest, Mr. Examiner, that perhaps it would be better to have Mr. Prior's cross-examination follow right where it occurs in the record, because we have only had one break.

Trial Examiner Lindsay: I think we have taken care of that, Mr. Clark. I believe we said the other day at the end of this hearing the reporters would re-arrange it to get this thing in order.

Mr. Clark: Very well. That is the way I understood it, too, but there still was left open the matter if it proved to be advisable. I was only suggesting that there was only one break, and it would be better to have the record show exactly the way in which it came up.

Trial Examiner Lindsay: The record already shows it. Let us not continuously go over things that we have taken care of. [390]

Cross-Examination

Q. (By Mr. Clark): Mr. Prior, what is the California Council of Edible Oil Workers?

(Testimony of E. F. Prior.)

A. The California State Council of Soap and Edible Oil Workers is composed of a number of directly affiliated Unions in the State of California.

Q. And do these directly represented Unions have representatives on the Council of Edible Oil Workers?

A. The California State Council of Soap and Edible Oil Workers, yes.

Q. In other words, this Local that we are concerned with in this case has a representative on that Council, is that true?

A. Each Local has representation in proportion to the membership of the Local. Q. I see.

Who is the representative from the Local Union?

A. I believe Mr. Farr and Mr. Martin are the elected delegates to the State Council.

Q. I see.

And for how long have you held the position as secretary of the State Council?

A. Ever since July 1, 1938.

Q. I see.

How old is the Council, by the way?

A. It was incepted and officers were elected July 1, 1938. [391]

Q. July 1st of last year? A. Yes.

Q. Is that right? A. Correct.

Q. Now, does the Council hold a charter direct from the American Federation of Labor?

A. No.

Q. What authority does it operate under, the Council operate under?

(Testimony of E. F. Prior.)

A. The authority of the affiliated Locals.

Q. And this Council that we are talking about, the California Council of Edible Oil Workers, of which you are the secretary, is not, then, chartered by the American Federation of Labor, is that true?

A. That is true.

Q. I believe you stated on your direct examination that each of the Locals—withdraw that.

I believe you stated on your direct examination that this particular Local which is involved in this case, and which was organized on the date the charter which is in evidence bears, is directly chartered by the American Federation of Labor and is called a Federal Union? A. Yes.

Q. Is that true? A. Yes. [392]

Q. Who did you represent when you first approached Mr. Farr; that is the Mr. Farr who has just testified here, with respect to organizing the employees of Boswell and Company in March of 1938?

A. The Soap and Edible Oil Workers Union, Local No. 18409; the Soap and Vegetable Oil Workers Union, Local No. 20283; The Cotton Seed and Vegetable Oil Workers, Local No. 21312; The Cotton Seed and Vegetable Oil Workers Union, Local No. 21291, and the Soap and Cosmetic Workers Union, Local No. 21361.

Q. Now, will you—

A. (Interrupting): All in the State of California.

Q. Will you please tell us where those Unions respectively are located?

(Testimony of E. F. Prior.)

A. Local No. 18409 is in Wilmington; Local No. 20283 is in Los Angeles; Local No. 21361 is in Burbank, and Local No. 21312 is in Bakersfield, and Local No. 21291 is on Coachilla.

Q. All right.

Now, will you please state whether or not the membership of those Locals is composed of the—withdraw that.

Will you please tell us—withdraw that.

Will you please define, very briefly, for us, Mr. Prior, if you will, the jurisdiction of the Locals you have just referred to so far as admissibility to membership is concerned [393] or eligibility to membership is concerned?

Mr. Mouritsen: I object to this—

Mr. Clark (Interrupting): I will submit it.

Mr. Mouritsen (Continuing): —on the ground it is immaterial.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): What position did you hold with those Locals in March of 1938?

A. Business representative.

Q. For each and every one of them?

A. Yes.

Q. I see.

And were each of these Unions directly chartered by the American Federation of Labor at that time?

A. Yes.

Mr. Mouritsen: I object to that as immaterial.

Trial Examiner Lindsay: Just a moment. Let us get down to this Union.

(Testimony of E. F. Prior.)

Mr. Clark: I would like to find out what this man is doing, attempting to organize Unions at the Boswell plant. That is what I would like to find out.

Trial Examiner Lindsay: It is of no interest here as to what they are doing at some other place. Let us direct our questions to the issues before us.

Mr. Clark: I think we are entitled to know, Mr. Examiner, [394] who he is and a little more about him.

Trial Examiner Lindsay: I think he has told you. I am not directing my remarks to anything pertaining to any information regarding the particular witness.

Mr. Clark: I see.

Trial Examiner Lindsay: The only thing I am telling you is that it is of no interest in this hearing what some other Local is doing.

Mr. Clark: I see. I will try not to go into that.

May I have the question which gave rise to this, Mr. Reporter?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: The answer may go out.

Q. Were you instrumental in organizing each of the Unions you have named?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): For how long had you been

(Testimony of E. F. Prior.)

—for how long prior to March of last year had you been the Business Representative for all or any of the Local Unions you have just given us?

Mr. Mouritsen: Objected to as incompetent, irrelevant and [395] immaterial.

Mr. Clark: I submit it.

Trial Examiner Lindsay: He may answer that.

The Witness: Since April 20th, 1934.

Q. (By Mr. Clark): And what was your occupation prior to that time, Mr. Prior?

A. I was in charge of merchandise, unloading and warehousing for Foster & Gamble Manufacturing Company at Long Beach, California.

Q. I see.

And that had to do with the loading and unloading of merchandise from ships, is that right?

A. Packing supplies for the packing of the materials.

Q. I see.

A. In the process of manufacture.

Q. And from the period of time, from the date in 1934 you have just given us, up to the present time, you have engaged in organizing various Local Unions, is that true? A. Yes.

Q. All right.

Now, how did you happen to contact Mr. Farr in March of 1938 as the first of the Boswell employees to whom you would talk concerning organizing a Union in this plant?

A. His brother in Bakersfield stated that he had

(Testimony of E. F. Prior.)

been over visiting his brother here in Corcoran and that the conditions, [396] wages had been discussed in that visit, and that they were below those that had just been negotiated at the Bakersfield plant of the San Joaquin Cotton Oil Company, and that from the discussion with his brother the employees at the Boswell plant were interested in an organization of their own.

Q. All right.

And as a result of that you had this conversation—you made this contact which you have described to us on your direct examination, with Mr. Farr, sometime in March of 1938, and the various subsequent visits here until we get up to the issuance of invitations to the employees of the Boswell Company to attend an open meeting to discuss the purpose of organization, isn't that true?

Mr. Mouritsen: Now, Mr. Examiner, I submit that there are at least five or six questions—

Mr. Clark (Interrupting): I am only trying to cover a period of time. I will withdraw the whole question.

Q. In July of 1938 you had a list of employees of the Boswell Company turned over to you, by one of the former employees of the Company, didn't you?

A. No.

Q. Well, it was turned over to you by Mr. Farr, but it had come from a former employee of Boswell Company, isn't that so?

A. I don't know about that. [397]

(Testimony of E. F. Prior.)

Q. Well, where did the list come from? Let me ask you that?

A. Mr. Farr gave it to me.

Q. Mr. Farr gave it to you? A. Yes.

Q. Whom had you requested to furnish you with such a list?

A. I had asked Mr. Farr about the names and addresses of the boys of the Boswell plant.

Q. I see.

And when did you ask him for such a list?

A. On or about July 6th, 1938.

Q. And as a result of that request, he delivered a list to you, is that right? A. Yes.

Q. And then a meeting was held here in Corcoran, isn't that right, in fact, in this very building, subsequent to July 6th?

A. Subsequent to July 6th, yes, sir.

Q. And prior to that meeting, had you sent out invitations to a number of employees of the Boswell Company to attend it? A. Yes.

Q. How many invitations would you say you sent out?

A. I would say between 30 and 40.

Q. I see.

How many people appeared at your meeting? [398]

A. Approximately 6 or 8.

Q. And when was the meeting held with respect to July 6th? A. On July 13th, 1938.

Q. Yes.

(Testimony of E. F. Prior.)

Now, how long after that meeting was it that you filed a charge against Boswell and Company with the National Labor Relations Board, rather with the Regional Director, the Director of the Twenty-first Region of the National Labor Relations Board in Los Angeles?

A. On or about July 17th or 18th.

Mr. Clark: Have you the original of that charge, Mr. Counsel?

Mr. Mouritsen: May I see the file, Mr. Reporter?

(The documents referred to were passed to Mr. Mouritsen.)

Mr. Mouritsen: Not if it bears date of on or about July 17th, 1938.

Was that it? The original charge that we have in this matter is dated November 21, 1938.

Mr. Clark: That is the charge that is in evidence in this matter, isn't it, the original charge you refer to?

Mr. Mouritsen: Yes.

Mr. Clark: Dated in November?

Mr. Mouritsen: Yes, that is correct.

Q. (By Mr. Clark): You swore to the charge filed in July, didn't you? [399] A. Yes.

Q. Have you a copy of it with you?

A. No.

Q. Well, have you a copy of it in your files, not with you on the stand?

A. I am not sure. I believe there is.

Q. May I ask that the witness——

(Testimony of E. F. Prior.)

Trial Examiner Lindsay (Interrupting): Will you gentlemen come up here, please?

(Conference between counsel and the Examiner at the bench.)

Mr. Clark: May I have the last question re-read, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: May I ask, Mr. Examiner, that the witness be allowed to step down from the witness stand and produce his copy, if he has it, of the charge testified to on his direct examination as having been filed by him with the National Labor Relations Board in July of 1938 against the Respondent, Boswell, Boswell Company?

Mr. Mouritsen: Mr. Examiner, I think that we would be going into collateral issues that have no bearing before this case. There is a charge here on file to which the witness has sworn. Now, it is the position of the Board that there is no [400] point to be gained by investigating any prior charge that the witness may have filed in any other matter.

Mr. Clark: My purpose, Mr. Examiner, in asking that question, is not to, in any manner, attempt to—rather—do anything other than to attack the credibility of this witness because of the charge which he has testified he swore to in July of 1938 as con-

(Testimony of E. F. Prior.)

trusted with the present allegations of the 4th amended charge.

Trial Examiner Lindsay: The objection is sustained. You may proceed.

Q. (By Mr. Clark): What knowledge did you have of the conditions at Boswell Company at the time you filed this charge with the National Labor Relations Board in July of 1938?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained. [401]

Q. (By Mr. Clark): Had you made any actual investigation of the conditions at the Boswell plant at the time you filed that charge?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: May it please your Honor, of course it seems to me——

Trial Examiner Lindsay (Interrupting): The only charge we are involved with here is the fourth amended charge upon which the complaint has been based.

Mr. Clark: Yes, but of course the point is, may it please the Examiner, that if I can show that this witness, without any knowledge at all of a situation at the Boswell plant, filed a charge against the company in July of 1938, and swore to it, it seems to me that that fact affects his credibility as being the

(Testimony of E. F. Prior.)

signatory of the present charges, namely those contained in the fourth amended complaint; rather, in the fourth amended charge which we are called upon to meet here today, and that is the purpose of going into that matter.

Trial Examiner Lindsay: You were meeting the allegations contained in the fourth amended charge by the various witnesses who are involved in that charge, and you have a right to go into all the matters involved in the charge by way of [402] examination of those witnesses.

Now that is, in substance, your case.

Mr. Clark: Yes; but this man is the man who is making the charge, your Honor.

Trial Examiner Lindsay: Let us proceed.

Mr. Clark: I simply submit his conduct in a prior occasion is material. Very well.

Q. What employees of the Boswell Company had you talked to with regard to organizing a union affiliated with the American Federation of Labor in the plant prior to July 13, 1938?

Mr. Mouritsen: I object to the question upon the ground it is vague and indefinite in that "in the plant" is inserted in there so we are uncertain as to what it refers to, whether the conversations were in the plant—(Pause)

Mr. Clark: I will withdraw it if that is the objection, and reframe it.

Q. Did I understand you to say that this meeting held here in Corcoran was on July 13, 1938?

(Testimony of E. F. Prior.)

A. Yes.

Q. That is the correct date, isn't it?

A. Yes.

Q. All right.

Now, prior to that time what employees, persons actually employed by the Boswell Company, up to July 13, had you talked to with respect to organizing an A. F. of L. union? [403]

A. Prior to July 13, 1938, the only Boswell employee that I had talked to in regard to organizing was Mr. O. L. Farr.

Q. All right.

Now, what former employees of the Boswell Company had you talked to in that regard prior to July 13th of last year?

A. I don't know. I may have met many of them that had worked for Boswell, but not to my knowledge.

Q. All right.

So far as you are concerned then, at the present time, Mr. Farr was the only Boswell employee with whom you were taking up that matter, is that right?

A. Yes.

Q. Now, at the time you filed this charge before the National Labor Relations Board on July 17th, I think you said the date was, what employees of the Boswell Company had you discussed the matter of the organization of an American Federation of Labor Union with?

Mr. Mouritsen: Object to that as incompetent, irrelevant and immaterial.

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: Well, he may answer.

The Witness: The employees, as I recall that attended a meeting here in this hall, here in Corcoran, were a gentleman known as Bill Robinson, Frank Gonder or Gonders—I am not sure which—Clyde Sitten, Jack Owens, and the former employee, Mr. Gilmore. [404]

Q. (By Mr. Clark): The last name is Gilmore?

A. Yes.

Q. All right.

How many of those persons, if any of them, ultimately became members of the local union which you organized here later that year?

Mr. Mouritsen: That is objected to on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: May I have the question, please?

(The pending question was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Now, by that you mean those people that attended that meeting?

Mr. Clark: That is right.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark): Take your time and go through the list in your mind.

A. Your Honor, I can't answer that question.

Q. Why not?

A. Quite often in my work in organizing I give my word to those who make application for mem-

(Testimony of E. F. Prior.)

bership that I will not divulge their names or give any indication that an employer might be able to ascertain who belongs or who does not belong to the union. [405]

Q. Well, is it your testimony then, Mr. Witness, that any of the persons present at that union meeting, aside from Mr. Gilmore, became members of it?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will withdraw that question and simply ask the Examiner if this witness is going to be permitted, in effect, to refuse to answer a question to which an objection has been overruled.

Mr. Mouritsen: Mr. Examiner, in that regard, the question is regarding an immaterial matter that can only be a very collateral issue and has no bearing upon the case. I interposed my objection then and I desire to renew it at this time.

Trial Examiner Lindsay: Well, in view of the fact that there is not an A(5) charge in this complaint, he does not have to answer the question if he wants to insist upon relying on his confidential relationship between the members and himself.

Mr. Clark: Very well. I hope that rule is as broad as it is long, Mr. Examiner.

Trial Examiner Lindsay: I just don't understand what you are driving at, Mr. Attorney.

Mr. Clark: Perhaps we will come to some part in the case where we will rest upon certain privileges, too. [406]

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: If they are justifiable, they will be treated as such.

Mr. Clark: I expect that.

Q. How long after the meeting of July 13th was it that you in fact organized the local union involved in this case?

A. A charter was installed on November 5, 1938.

Q. But you heard Mr. Farr testify a few moments ago, or an hour ago—at any rate, during this afternoon—that he joined on September 2nd, didn't you?

A. Yes.

Q. So that I am correct in stating, am I not, that your organization was formed a good many weeks before the charter was actually issued?

A. There were a number of applications taken, yes. [407]

Q. All right.

Well, didn't you have a going organization before you actually applied for the issuance of a charter by the American Federation of Labor?

A. There were no officers elected until November 5, 1938.

Q. All right.

When did you take the first application from an employee at Boswell and Company for membership in this union?

A. On or about September 2nd of 1938.

Q. I see.

So that between your meeting of July 13th and the time you filed these charges of July 17th with

(Testimony of E. F. Prior.)

the National Labor Relations Board, and September 2nd, if I understand you correctly, there were no applications taken from an employee at the Boswell plant for membership in this proposed union?

Mr. Mouritsen: May I have the question read?

Trial Examiner Lindsay: Yes.

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to it as vague and indefinite.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Do you understand the question?

The Witness: Well, I believe the question——

Mr. Clark (Interrupting): If there is any doubt about [408] it, I will reframe it, Mr. Witness.

Q. Did you take any applications for membership in the proposed union prior to September 2nd?

A. No.

Q. Did you talk to any of the employees then working at Boswell regarding joining the proposed union prior to September 2nd? A. Yes.

Q. And when was the first time after July 13th, the date of the Corcoran meeting, that you next talked to any Boswell employee regarding the organization of your proposed union?

A. September 2nd.

Q. Then, do I understand that there was no activity at all on your part between the meeting of July 13th and the date of September 2nd?

(Testimony of E. F. Prior.)

Mr. Mouritsen: Objected to as too broad and too general.

Q. (By Mr. Clark): Do I understand that there was no activity on your part with respect to organizing this particular local union between July 13th and the date of September 2nd?

A. There was activity.

Q. Well, you have told us that you didn't talk to any of the Boswell employees in an attempt to get them to join the proposed union during that time, isn't that true? A. Yes.

Q. And you didn't hold any meetings, isn't that true? [409] A. Yes.

Q. And you didn't sign—have anyone sign applications, not even Mr. Farr, isn't that true?

A. Yes.

Q. Did your activity consist merely of having filed this charge with the National Labor Relations Board?

A. That and an exchange of correspondence with Mr. Gilmore and Mr. Farr, yes.

Mr. Clark: All right.

At this time, Mr. Examiner, I am going to make a formal demand upon counsel for the original of the charge referred to by this witness as having been filed by him with the National Labor Relations Board, Twenty-First Region, I think the testimony shows, on July 17, 1938, against the respondent, Boswell and Company.

Mr. Mouritsen: Mr. Examiner—

Mr. Clark (Interrupting): Simply for the rec-

(Testimony of E. F. Prior.)

ord. I don't want to argue, and I will take the ruling on it.

Mr. Mouritsen: Mr. Examiner, with reference to that demand, I state that the position of the Board is that it is entirely out of order inasmuch as the original of the charge is not available to me and I have been informed that it is no longer in our office inasmuch as it has been transferred to another office of the National Labor Relations Board over which I have no control and with which I have no connection. [410]

Mr. Clark: All I want is a ruling, Mr. Examiner, on the relevancy of the demand. So far as the mechanics are concerned, I will wait any length of time until it gets here to examine Mr. Prior on it or have it produced.

Mr. Mouritsen: I will object to its being furnished in any event in that it will not tend to prove or disprove the issues in this matter.

Mr. Clark: I submit the objection.

Trial Examiner Lindsay: The objection is sustained.

Mr. Clark: And the demand refused, Mr. Examiner? Is that true?

Trial Examiner Lindsay: No, Mr. Attorney. I sustained the objection.

Q. (By Mr. Clark): You had a meeting on September 2nd of 1938 at which various people signed up in your union, didn't you? A. Yes.

Q. And among them, Mr. Farr actually signed an application at that time? A. Yes.

(Testimony of E. F. Prior.)

Q. That is so.

Now, immediately following this episode of November 18th, namely, on the morning of November 19, 1938, did you have a meeting with Mr. Gordon Hammond at his office at the Boswell plant here in Corcoran regarding the events of the preceding [411] day?

A. Mr. Gordon Hammond and Mr. Robinson.

Q. And Mr. Louis T. Robinson? A. Yes.

Q. You are speaking of Mr. Hammond, the plant superintendent, and Mr. Robinson, the general manager of this plant, is that right? A. Yes.

Q. Who else was present besides yourself and Mr. Robinson and Mr. Hammond?

A. Mr. Spear and Mr. Martin.

Q. Now, by that time Mr. Spear had become the president of this local union, hadn't he?

A. Yes.

Q. And did Mr. Martin hold any position?

A. Financial secretary-treasurer.

Q. Right.

Had Mr. Martin been employed on the day before?

A. Yes.

Q. I mean, he was employed at Boswell's on the day before when these things happened that Mr. Farr testified to this afternoon, is that right?

A. Yes.

Q. Now, at that meeting on the morning of November 19, will you please tell us whether or not Mr. Robinson stated to [412] you and to Mr. Martin

(Testimony of E. F. Prior.)

and to Mr. Spear that the men who had left the plant on the preceding day were still on the payroll and could come back to work whenever they pleased?

Mr. Mouritsen: Objected to as including the identity of a person not known and mentioned in the evidence prior to this time, and compound.

Mr. Clark: Who is that?

Mr. Mouritsen: Mr. Robins.

He has testified that Robinson and Hammond and Spear and Martin and himself were all there having a meeting about the matters which had occurred on the preceding day. And he asked him for a statement of Robins.

Mr. Clark: Robinson. Did you have——

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark): Did you have that in mind?

A. Yes.

Q. And bear in mind that I am asking you for that statement or any statement or any statement which is in substance or effect similar to it?

A. All right. I asked Mr. Robinson about the status of these employees in relation to their pay.

Q. Yes.

A. I raised that question in the conference.

Q. Yes.

A. And Mr. Robinson says, "Well," he says, "We will have to [413] give that some consideration. We will think that over."

Q. Well now, the thing I am asking you, Mr.

(Testimony of E. F. Prior.)

Prior, is this: Didn't Mr. Robinson tell you that these men could come back to work any time they chose? A. No.

Q. And that they still would be continued on the payroll? A. No.

Q. You are positive of that?

A. I am positive of that.

Q. Will you say that Mr. Robinson made no such statement to you on that occasion?

A. Mr. Robinson when I raised the question in regard to these men being on the payroll—I asked that question——

Q. (Interrupting): Will you please tell us how you asked it? How it came up, I mean?

A. Well, the meeting had been called for the purpose of determining whether or not these men would be and could be reinstated and be placed back on their jobs in the same status that they had been prior to 10:00 o'clock the morning before.

Q. How had that status changed, please?

A. They had been evicted from the plant.

Q. Well now, was that your position in the matter that they had been evicted from the plant?

A. Yes.

Q. You know, Mr. Prior, that these men had not checked with [414] Mr. Robinson when they left, didn't you?

A. They reported to me that they had left the plant and had, through the vice-president of the organization, called Mr. Robinson by telephone.

Q. Well, as a matter of fact, didn't you talk; and

(Testimony of E. F. Prior.)

I wish you would give this some thought, didn't you talk—didn't you call Mr. Farr immediately you found out that something had happened at the Boswell plant on the morning of November 18th and instruct him to call Mr. Robinson and advise Mr. Robinson that they, the employees, had left?

A. No, I did not.

Mr. Mouritsen: I object.

Mr. Clark: The answer is no.

Q. When you first heard about the matters of November 18th, you were told, weren't you, that—by Mr. Farr or whoever reported it to you or when you saw him—that Mr. Robinson had told all of these employees to go back to work and cool down and that he would straighten the matter out later? Weren't you told that?

Mr. Mouritsen: Objected to as compound and unintelligible.

Trial Examiner Lindsay: Sustained. [415]

Mr. Clark: Well, we will simply have to go back a little further.

Q. As I understand your direct examination, you were at Bakersfield the morning of November 18th, is that right?

Trial Examiner Lindsay: Mr. Attorney, you may ask that question if you will just——

Mr. Clark (Interrupting): I can ask it quicker than trying to reframe it.

Trial Examiner Lindsay: Leave out evidence that is not in the record. Mr. Farr didn't testify to anything of that nature.

(Testimony of E. F. Prior.)

Mr. Clark: As a matter of fact I have the right on cross-examination to ask questions assuming things which are not in the record, Mr. Examiner.

Mr. Mouritsen: Mr. Trial Examiner, counsel has done that on a number of occasions. It is the position of the Board that it is an extremely unfair practice. It is not the right of counsel to try to entrap witnesses. We are trying to ascertain the facts.

Mr. Clark: I am trying to ascertain the truth. I am not trying to trap anybody.

Trial Examiner Lindsay: Let me make this statement.

Whether on direct examination or cross-examination, you never have a right to misquote the testimony of a witness. Now, you have a right to make a statement as to what some one [416] claims a witness has said, but to misquote a man's testimony in a question, I do not concede that any attorney on direct or cross has a right to resort to that sort of thing.

Mr. Clark: I am not mis-quoting anybody's testimony, or even attempting to quote anybody's testimony. If your Honor will have the record read back, you will see I am not attempting to quote Mr. Farr's testimony or anyone else's testimony.

Trial Examiner Lindsay: That was my understanding. I am telling you not to do it.

Proceed.

Mr. Clark: I have never in any trial, and I am not in this trial trying to mis-quote a witness.

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: Let us have an understanding.

When I give an order to have certain things done, I expect an attorney to do it without arguing. You have your ruling on the record, and I am not giving anything contrary to the bare fact that I want merely the facts in the case. Now, I stated that I do not want any testimony mis-quoted.

Now, if you haven't mis-quoted it, all right, but let us not do it.

And when I make a statement, it isn't necessary that attorneys start arguing. This hearing is going on in a very orderly way. That is the only way we will ever get through with it, and that is—those instructions I have given are with [417] due respect to everyone.

Mr. Clark: May I proceed?

Trial Examiner Lindsay: Yes, you may proceed.

Mr. Clark: I don't think there was a question before the Court. I started to go back and develop it another way.

Q. Mr. Prior, you were at Bakersfield on the morning of November 18th, weren't you?

A. I believe I was. I believe I left here the night before and stayed all night at Bakersfield.

Q. And someone got in touch with you down there telling you that certain things had happened at the Boswell plant up here at Corcoran, on that morning, isn't that true?

A. At about 6:00 o'clock that evening, yes.

(Testimony of E. F. Prior.)

Q. I think you said it was the head or representative of some teamsters' organization, didn't you? A. I did not.

Q. Who was it? It was someone of the Union?

A. (Pause.)

Q. Tell me who it was?

A. Can I have the date you are referring to?

Q. November 18th. A. No.

Q. Who was it that told you about the happening up here at Corcoran?

A. Mr. R. K. Martin and Mr. O. L. Farr. [418]

Q. And what did they do? Telephone you?

A. No, they told me in person.

Q. Well, now, let us go back and see if we can't find out about that.

I understand from your testimony that on November 18th you were down in Bakersfield?

A. Yes.

Q. When these things occurred, if they did occur; is that true? A. Yes.

Q. All right.

Now, how, in what manner did you hear about the events of November 18th at the Boswell plant? By telephone or conversation?

A. By direct conversation with Mr. R. K. Martin and Mr. O. L. Farr.

Q. All right.

Had you been notified of anything happening at the Boswell plant while you were down in Bakersfield?

(Testimony of E. F. Prior.)

A. Not until Mr. Martin and Mr. Farr contacted me.

Q. Well, how did they contact you?

A. In person.

Q. Did they come down there? A. Yes, sir.

Q. All right. [419]

What time of day was that?

A. Approximately 6:00 o'clock in the evening.

Q. I see.

So that you had nothing at all to do with Mr. Farr having called Mr. Robinson on the telephone after he, Farr, had reached his home during the morning of the 18th; is that so?

A. That is right.

Q. All right.

The first time you saw any of the Company officials, that is, either Mr. Gordon Hammond or Mr. Louis Robinson, was on the following morning, the 19th, at the occasion you have already partly described for us, isn't that right? A. Yes.

Q. Now, I think you said that the purpose of your visit was to ascertain the status of these Union members, including Mr. Farr and Mr. Martin, and so forth, is that right? A. Yes.

Q. When Mr. Farr and Mr. Martin reported to you down in Bakersfield on the evening before, what had happened that morning, namely, November 18th, didn't they tell you that Mr. Robinson when this whole crowd had gone over to his office, had told them all that they were too excited, and to go

(Testimony of E. F. Prior.)

back to their work and cool down, and he would straighten the whole thing out later?

Mr. Mouritsen: Objected to as already asked and answered [420] twice.

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Off the record.

(Discussion outside the record.)

Trial Examiner Lindsay: On the record.

Read that again, Mr. Reporter?

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Reframe the question so that I understand it.

Mr. Clark: Very well.

Q. Now, Mr. Prior, when Mr. Farr and Mr. Martin met you at Bakersfield on the evening of November 18th, did they tell you that when the crowd had all gone over to the superintendent's office that morning, that Mr. Louis Robinson had told them all that they were excited, and to go back to their work and cool down, and that he would straighten out the entire matter?

Mr. Mouritsen: Objected to—

Mr. Clark (Interrupting): Or words to that general effect.

Mr. Mouritsen: Objected to as vague and indefinite, and untelligible.

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: I think that question covers what [421] I have requested.

You may answer.

The Witness: Mr. Martin and Mr. Farr reported that they had been escorted to Mr. Robinson's office.

Mr. Clark: I ask that go out.

Trial Examiner Lindsay: Yes.

Read the question?

(The question referred to was read by the reporter, as set forth above.)

The Witness: They told me that Mr. Robinson had told them all to go back to their machines and that he would come out and straighten the matter out.

Mr. Clark: All right.

Q. Now, did they also tell you that they had gone back to their machines? A. Yes.

Q. And then did they tell you that certain employees had again interfered with them?

A. Yes.

Q. And then did they tell you that they had gone back and reported that to Mr. Robinson, or that they hadn't reported it to him? Which?

A. They told me they called Mr. Robinson.

Q. No, no. I mean before they left the plant?

A. They told me that they had telephoned Mr. Robinson. [422]

Q. I mean before they left the plant.

I mean, did they say that they had reported to Mr. Robinson what these other employees had done?

(Testimony of E. F. Prior.)

A. No, sir.

Q. Did they make any statement to you at all in that regard? A. No.

Q. Then, do I understand that—

Mr. Mouritsen (Interrupting): Just a minute. I submit, Mr. Examiner, that the question is too indefinite in that it is unfair, and I move that the answer go out.

Mr. Clark: I will submit that.

Trial Examiner Lindsay: The answer may stand, but after the answer is—this is not a matter of ruling—after the witness has answered the question, sometimes in some cases two or three times, it isn't necessary to summarize the testimony again. Just proceed with the questions.

Mr. Clark: May I have the last question and answer, please?

Trial Examiner Lindsay: Yes. Read the question and answer.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I will withdraw the last.

Q. On the following morning, November 19th, did you ask Mr. Robinson, that is the plant manager, if he couldn't have the [423] men tear down some stacks of cake and have your Union men re-stack it in order to give them something to do?

A. I—this conversation was had with Mr. Robinson in regard to that.

(Testimony of E. F. Prior.)

Q. Well, in the presence of these other people, I take it?

A. In the presence of all those people.

I tried to—or, I told Mr. Robinson that often these misunderstandings led to greater proportions and quite often became serious, and that it would possibly be better for the Company, better for the employees and everyone concerned, even if it were necessary for a few days to place a number of the employees to moving stacks from one pile to the other, and then carry them back where they came from, rather than to let a situation of that kind become large and a lot of misunderstandings and hard feelings and develop into serious proportions.

Q. What did you mean by your use of the term “misunderstanding”? What misunderstanding was there?

A. To the best of my knowledge, the employees and the management had a misunderstanding in regard to the membership of the men that they had evicted the previous day.

Q. Well, do you mean that they were wrong in supposing that these men belonged to your Union? Is that what you mean? A. No.

Q. Well, do you mean, Mr. Witness, that the Boswell Company [424] had misunderstood its duties under the law?

A. I don't think that I had much misunderstanding on it, but I was trying to exercise at least a portion of diplomacy and to try to smooth out

(Testimony of E. F. Prior.)

a situation that appeared to be as though it might become serious.

Q. Well, might I ask you what you meant in your statement to Mr. Robinson on that occasion by the situation becoming more serious; that is, serious enough to warrant his taking back some men to do a needless thing, such as tearing down stacks of cake and re-stacking them?

A. I did not tell Mr. Robinson, or really, in fact, did not suggest that Mr. Robinson do that. I simply made it as an illustration in the conversation to put across a point that it would be best to avoid any further controversy, even if that step might be necessary. It was a general part of the conversation. It was more or less general, and as I stated before, I was trying to exercise as much diplomacy as it was my ability to do to get these men back on the job and in their regular status, and to have no more friction or trouble than it was absolutely necessary to have.

Q. My question was, Mr. Prior, what did you mean by stating that possibly this situation might become more serious than it was, or I think you used the term "become greater" or "general"? What do you mean by that?

A. I meant that it might become necessary if these men were [425] not placed back on the payroll and that their rights as employees and citizens were not protected, that we would have to appeal and file charges with the National Labor Relations

(Testimony of E. F. Prior.)

Board and appeal to our organizations, with which we are affiliated within the labor movement, to help prosecute a boycott against the Boswell Company. [426]

Q. You had already filed charges before the National Labor Relations Board, hadn't you?

A. I had——

Mr. Mouritsen (Interrupting): Objected to as vague and indefinite. What charges?

Mr. Clark: Submitted. On July 17th. I am talking about that.

Trial Examiner Lindsay: He may answer.

The Witness: No, the charge on July 17th was withdrawn.

Q. (By Mr. Clark): When was it withdrawn?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: May I have the exhibits?

(The exhibits referred to were passed to Mr. Clark.)

Mr. Clark: Was there a ruling, your Honor?

Trial Examiner Lindsay: He may answer. If he knows, he may answer.

Q. (By Mr. Clark): When was it withdrawn?

A. In the early part of September, as I recall.

Q. And what was the occasion for this withdrawal?

A. It appeared, or we felt that the alleged violation was no longer being practiced and that it was

(Testimony of E. F. Prior.)

no longer necessary to go ahead and press the charge.

Q. What was the alleged violation? [427]

A. The alleged violation was an 8(1) violation.

Q. Please tell us that in your own words.

Mr. Mouritsen. This is objected to as immaterial. What possible bearing does the filing and withdrawing of a former charge have upon this matter which is an entirely different matter and happened subsequent to the filing and the withdrawing of the former charges?

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. As a matter of fact, prior to November 18th you had been told by Mr. Hammond, that is, Mr. Gordon Hammond, Mr. Prior, that it was no concern of the company whether its men joined or didn't join your union, isn't that right?

A. Oh, yes; every management tells me that.

Q. That is true in this case, isn't it?

A. Yes.

Q. And by November 18th, or at least September, when you withdrew this charge, you had come to a decision that that was the truth in this case, isn't that right?

A. The charge was withdrawn just shortly after the four men, Mr. George Andrade, Mr. R. K. Martin, Mr. O. L. Farr, and, I believe, I am correct in that, I am trying to place that time, and Mr. Boyd Ely had been placed right back on the job.

(Testimony of E. F. Prior.)

Mr. Mouritsen: May I have that question again to which the answer applies? [428]

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: May I proceed?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark): Now, in that connection, leaving the conversation of November 19th for a moment, subsequent to that time did you have anything to do with causing there to be placed on the bulletin board or on the company property a notice, an approval by Mr. Larson, one of the field men for the National Labor Relations Board, Twenty-First District I believe, identical with that which has been marked Respondent Boswell's Exhibit 2 for identification, I think?

A. (Examining document): Mr. Larson gave me a copy of this, or similar to it. It seems to me there was a date on it.

Q. Do you remember when that was?

A. On or about November 23, I believe, of 1938.

Q. Yes.

And Mr. Larson had been sent down at your request, hadn't he, or through the filing of a charge by you with the Board to investigate the situation at the Boswell plant? A. Yes.

Q. And as a result of his conferences with the Boswell Company at the plant here he reported to

(Testimony of E. F. Prior.)

you, did he not, that [429] a notice identical with the text of the exhibit I have shown you had been posted on the company property for employers to read?

A. I would say very similar to this text. I don't know.

Q. Yes.

Did you ever yourself happen to see that notice that was posted there, the original notice?

A. Posted on the Board?

Q. On the property? A. No, I did not.

Q. Mr. Larson told you that it had been posted, though, didn't he? A. No.

Q. Did he tell you it would be posted?

A. He told me that they had stated that they would post it.

Q. All right.

Did any of your members report back to you that they had seen it on the property?

A. No, they haven't.

Q. Did you ever make any effort yourself to check up as to whether or not such notice was in fact posted on the company's property subsequent to November 18th for a period of about two weeks?

A. I talked to Mr. Robinson about the notice. [430]

Q. What did you ascertain from him?

A. Mr. Robinson stated that this notice had been placed on the bulletin board in the office. We had some little disagreement on that, and that my under-

(Testimony of E. F. Prior.)

standing was that the notice was to be placed in all departments in the plant and Mr. Robinson stated that that was not his understanding from Mr. Larson, that if it were placed in the office bulletin board that that would cover it.

Q. I see.

A. I stated that they had had it up there for the required period of time.

Q. All right.

Which was two weeks, wasn't it?

A. I think it was.

Q. All right.

A. I am not positive on that now.

Q. All right.

Now, following that up, I mean subsequent to that, you of course had another meeting with Mr. Robinson concerning the subject matter of this notice which is marked respondent Boswell's Exhibit 2 for identification, didn't you, that is, the right of the employees to join the union if they wanted to, and in that connection I direct your attention to respondent Boswell's Exhibit 3.

A. (Examining exhibits): Yes, I inserted this ad myself. [431]

Q. I see.

Now, that ad, as shown by the exhibit number, was inserted on January 20th. Is that the date you recollect it was published?

A. Whatever the date of the——

Trial Examiner Lindsay (Interrupting): The newspaper speaks for itself.

(Testimony of E. F. Prior.)

Mr. Clark: Very well, just so long as that——

The Witness (Interrupting): I recall the ad.

Mr. Clark: Yes.

As a matter of fact the newspaper isn't a part of the exhibit, your Honor. We have confined it only to the ad, you will remember.

Trial Examiner Lindsay: Plus the date of the page.

Mr. Clark: All right, the date of the page as a part of the exhibit answers that.

Q. You, of course, believed the statements made in that advertisement were true at the time you made them? A. No.

Q. Oh, you didn't? A. No.

Q. In other words, you published the matters which appear over your name on that advertisement believing them to be untrue?

A. I placed this in here in quotations. [432]

Q. You didn't believe them then to be true at all?

A. I did not.

Q. I notice that the language, reading as follows: "After the declaration of company policy by Mr. Robinson, no employee of the company should be afraid to attend a meeting for the purpose of learning the history and gains made by organization in their industry—they really owe it to themselves to learn everything possible about these new developments," is not in quotations. You intended that to be a statement by you, didn't you? A. I did.

Q. And as to everything else in this advertise-

(Testimony of E. F. Prior.)

ment, which is not included in the quotations, you are vouching for that, aren't you?

A. With the exception of possibly some of the spelling.

Q. Some of the what?

A. Some of the spelling.

Trial Examiner Lindsay: Some of the spelling.

Mr. Clark: I see.

Well, I guess the newspaper can spell.

We offer, your Honor, this Exhibit 2 for identification in evidence.

Mr. Mouritsen: I object to the offer upon the ground that no foundation has been laid.

Mr. Clark: Submitted. [433]

Mr. Mouritsen: It has never been indicated by anyone. The witness has never seen the notice posted and he is not even sure that it is an exact copy of the notice posted if it was posted.

Mr. Clark: He said he checked up on it.

Trial Examiner Lindsay: Now, wait a minute. Now, just for the time being, this may be off the record, and if you want it on later, I will put it on.

(Discussion outside the record.)

Mr. Clark: I will withdraw the offer.

Does you Honor intend to take a recess at this time? It is 4:30.

Trial Examiner Lindsay: Yes. The hearing will be adjourned until 9:30 in the morning.

(Thereupon, at 4:30 o'clock p. m., an adjournment was taken until 9:30 o'clock a. m., Tuesday, May 23, 1939.) [434]

American Legion Hall,
Corcoran, California,
Tuesday, May 23, 1939. [435]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: The Respondents are ready.

Mr. Mouritsen: Ready for the Board.

Mr. Clark: May I proceed?

Trial Examiner Lindsay: Yes.

E. F. PRIOR,

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Cross Examination

(Continued)

Q. By Mr. Clark: Mr. Prior, did you bring with you the amended copy, or rather a copy of the amended constitution and by-laws of the American Federation of Labor as of 1938?

A. I don't have that as yet. I meant to pick it up on Long Beach when I went down over the weekend, but I forgot it. I will get one from either one of the later Locals up here in the Valley, or from the Fresno Central Labor Council.

Trial Examiner Lindsay: You will try to have it here sometime this week or the next week?

The Witness: Yes.

Q. By Mr. Clark: At any rate, before the hearing closes you will furnish us with that so it may go

(Testimony of E. F. Prior.)

in as Board's Exhibit 6, I believe is the number reserved for that.

In that connection, Mr. Prior, can you tell us what if any requirement is contained in the constitution and by-laws of the [437] American Federation of Labor, either as they are admitted in evidence or as amended, so far as a quorum of Union membership necessary to authorize picketing is concerned?

A. There is nothing stated in any of the constitutions or by-laws of the American Federation of Labor as to that.

Q. In that regard? A. Yes.

Q. What is the practice or rule concerning that?

A. That is left strictly to the local autonomy of all Local Unions and practically all Locals of all International Unions affiliated with the American Federation of Labor.

Q. I see.

In the case of this particular Local, what is the rule or custom which has been adopted with respect to the number of members necessary to constitute a quorum where you are to pass a strike sanction or authorize a boycott or picketing?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: Submit it.

The articles and by-laws went in, may it please your Honor, with respect to this particular rule or matter which concerns the governing of the Union that is not included in the by-laws, but there is a

(Testimony of E. F. Prior.)

practice of leaving it to the autonomy of the particular Local, and I am asking what rule, if any, in that regard has been adopted by this Local.

Trial Examiner Lindsay: He may answer. [438]

The Witness: There had been no, or has been no definite rule set up in regard to that matter by the Local pertaining to picketing. In fact, I don't know of any Local Union that has any rule in its constitution or by-laws designating the number of pickets to be used in picketing.

Q. By Mr. Clark: No, of members to constitute a quorum at such meeting, that is what I am after.

A. We have no picketing meetings. I don't believe I understand.

Q. In your direct testimony, you testified, I think, Mr. Prior, that on a certain date in January a meeting was held by the members of this particular Local Union involved in this case at which it was decided to inaugurate picketing against the Boswell Company.

Do you remember that testimony?

A. Yes, I remember that testimony.

Q. All right.

Now, I am asking you what rule, if any, of your Local Union there is pertaining to a quorum of members necessary to authorize or pass a resolution authorizing picketing?

A. Those matters are just taken care of, the same as any other routine business of the organization. It is just picketing and the handling of strike and

(Testimony of E. F. Prior.)

the passing on agreements, and those things is just a routine business of an organization. They have no set rules on—the only rule that they have in [439] any Local Union is the rule in calling a strike, and most Local Unions do have a rule pertaining to the actual calling of strike. [440]

Q. Well now, had a strike been called by this local against Boswell? A. No.

Q. The picketing has been authorized, though?

A. Yes, sir.

Q. Now, is there any rule or custom in use in this particular local with respect to the percentage of its members who must be present at any meeting at which business is done, and I am inquiring specifically about picketing?

A. No, there is nothing in regard to picketing.

Q. Well, is there any requirement so far as any meeting is concerned as to the number of members which must be present to constitute a valid meeting?

A. To the best of my knowledge this local has not passed any motion or adopted any resolution setting up what shall constitute a quorum.

Q. Has it followed any practice in that regard?

A. Not to my knowledge.

Q. Now, directing your attention for a moment again to the meeting on the morning of November 19th in Mr. Louis Robinson's office at the Boswell plant, I will ask you what reply, if any, Mr. Robinson made to your reference, we will call it, to unstacking and restacking cake in order to provide em-

(Testimony of E. F. Prior.)

ployment for men during a situation such as that which was presented at this particular company. [441]

A. I really don't recall what Mr. Robinson's response was other than that there was a tense feeling on the part of the employees still working and that he felt that it was a situation that should be handled with the utmost care and that he didn't want to take any action without giving it very careful consideration and bring these employees back and possibly cause a further flare-up in the plant.

Q. Now, will you see if you can't answer the question which I put to you directly, Mr. Prior. And this is no criticism of your attempts in that regard.

On your direct examination you made some reference to your having suggested that the men be used to tear down stacks of cakes and restacking them. Do you remember that reference? That is all I want.

Trial Examiner Lindsay: That testimony was brought out on cross examination.

Mr. Clark: I mean on cross examination. I am incorrect in stating it was direct examination. It was on your cross examination.

The Witness: On cross examination I did say that.

Q. By Mr. Clark: You have that statement of yours in mind, haven't you? A. Yes, sir.

Q. The thing I want is what direct response, if any, Mr. Louis Robinson made to that suggestion by you. [442]

(Testimony of E. F. Prior.)

A. The only thing I could give you would be my conclusion.

Q. I don't want your conclusion. I would like what statement he made, if any, and if he didn't make one, tell us so.

A. Well, directly to that statement I would say that he made no statement.

Q. I see.

Now, is the best answer, then, that you can give us in that regard the one previously given? Namely, that Mr. Robinson's statement to you was that the situation was very tense so far as the other employees were concerned, and in effect that he wanted to feel his way along in it? A. Yes.

Q. All right.

What, if anything, further did Mr. Robinson say at this meeting of November 19th so far as the status of the members of your Union was concerned, at the plant?

A. May I have that question again?

Mr. Clark: May I have the question read?

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I will object to the question on the ground it is vague and indefinite.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Do you understand the question? [443]

(Testimony of E. F. Prior.)

The Witness: I believe I do.

Trial Examiner Lindsay: You may answer.

Mr. Mouritsen: I withdraw the objection.

The Witness: Could I have that again, please?

Mr. Clark: Well, I will see if I can't reframe it, because possibly the witness doesn't have it all in mind.

Trial Examiner Lindsay: Can't we have our questions a little shorter?

Mr. Clark: I will try, your Honor, but it is rather difficult.

Q. The purpose, as I understand it, of the meeting of November 19th, so far as you were concerned, was to ascertain the status of your people at the Boswell plant, isn't that true? A. Yes.

Q. Will you please tell us what, if anything, Mr. Robinson said in that regard, in addition to what you have already told us in your cross examination?

Mr. Mouritsen: I will object to the question on the ground it is vague and indefinite.

Mr. Clark: I will withdraw it and ask him again, what, if anything, Mr. Robinson said about it?

The Witness: As nearly as I recall—I am not positive if I testified to this previously——

Q. By Mr. Clark: Let us have it all again, so long as there is some doubt about it. [444]

A. Mr. Robinson stated that he and Mr. Gordon Hammond would feel out the sentiment of the men, to which I asked Mr. Robinson if we were dealing with the management of the J. G. Boswell Company,

(Testimony of E. F. Prior.)

or if we were expected to deal with the employees, that in all previous cases with other companies we had been accustomed to deal with the management, but if there was a different policy here, if he would call the employees together that we would take the matter up with them, to which Mr. Robinson replied, he said, "Well, I will have to discuss it, or feel out the sentiment of the employees."

Q. Was it in that connection that he stated that the situation there at the plant was rather tense, as I think you have said earlier this morning?

A. Of course, it is difficult to repeat verbatim all of the conversations that go on in these conferences. I think the conference lasted around an hour or an hour and a half, and in relation to the stacking and re-stacking of the meal, it was something that was along the general conversation that I was simply making in an attempt to put across a point; and I assumed that Mr. Robinson's reply was one intended not to be a direct commitment on his part, and at the same time expressing that he wanted time to talk to the men and probably adjust themselves to any condition that might be coming up in the future.

Q. You understood that Mr. Robinson wanted to smooth out this [445] entire thing, didn't you?

A. I didn't have that feeling.

Q. Well, didn't he, in effect, say that that was what he wanted to do?

A. He so stated.

Q. Yes.

There had been a meeting, Mr. Prior, between you

(Testimony of E. F. Prior.)

and Mr. Martin and Mr. Spear and Mr. Farr on the one side, and Mr. Gordon Hammond on the other, on the morning of November 17th at the Boswell plant, hadn't there? A. Yes.

Q. And am I correct in stating that the meeting on the morning of November 17th, to which I have just referred, was the result of a prior meeting of members of your Union off the Company property, to-wit: On the preceding night, at which a committee was appointed to take up certain matters with the Company officials? A. (Pause.)

Q. Will you please answer?

A. Yes, that is correct.

Q. Now, will you please tell us what the object or purpose of the meeting of November 17th was, that is, the meeting held on the morning of November 17th at the Company plant, at which you and Messrs. Martin, Spear and Farr represented this Local Union? [446]

A. Yes. The purpose of that meeting was to discuss with the representatives of the company the possibility of reducing the hours from 12 hours per day, and in some instance longer, to an 8-hour day and in that way create more employment, employment for a larger number of employees, and at least prevent the laying off of any more men than it was absolutely necessary to lay off.

Q. Yes.

A. And further to bring to the attention of the management that a number of the members had re-

(Testimony of E. F. Prior.)

ported, and the allegation was being made, that certain of the supervisory employees in the plant were intimidating the prospective members of the union.

Q. All right.

Now, let us lay the latter part of your answer to one side for a moment and we will come to that in order. The first thing that I would like to direct your attention to is the matter of spreading out the work among more employees by your attempt to reduce the hours of work.

Now, am I correct in stating that the occasion for this committee consulting the company officials in that regard was that the company was then laying off certain men and about to close down one or more of the gins? A. Yes, that is correct.

Q. In other words, to put it bluntly, Mr. Prior, the work [447] looked as though, if it continued, if the number of hours then worked were continued, that—withdraw all that.

In other words, Mr. Prior, the work looked as though it was about to run out, isn't that so, if they continued to work the number of hours which had been worked in the past?

Mr. Mouritsen: Objected to unless the witness knows.

Mr. Clark: If he knows, actually, certainly.

The Witness: Could I have that question again? There is one word that is not quite clear.

(The record referred to was read by the reporter, as set forth above.)

(Testimony of E. F. Prior.)

The Witness: It had that appearance to us at that time.

Q. By Mr. Clark: Yes.

Now, earlier in the fall, that is, about October 8th, after the mill had been shut down and some of your union members, among others, had been laid off, you had had a meeting with Mr. Gordon Hammond with respect to having the men put back to work, and the result of that had been that your four union men within a few days were put back on, isn't that so?

Mr. Mouritsen: Now, I object to that, Mr. Examiner; it is obviously——

Trial Examiner Lindsay (Interrupting): I am going to sustain the objection to that question.

Mr. Clark: May I ask your Honor to indicate the ground [448] upon which the objection is sustained?

Trial Examiner Lindsay: Well, it isn't necessary for me to give my reasons. Your questions are —(Pause)—you may reframe the question.

Mr. Clark: May I have it read back?

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: It is perfectly clear, your Honor. It is not compound or complex.

Trial Examiner Lindsay: Mr. Clark. Will you please stop arguing with me about these matters? Now I have kindly requested that the question be reframed. Now as I understand the testimony a lot

(Testimony of E. F. Prior.)

of the things in there, in your question, have not been touched upon as yet. It is not fair to a witness.

Mr. Clark: The whole thing is indirect examination and I am trying to sum it up and to direct his attention to a certain situation. I can take half an hour to develop it so far as that is concerned.

Trial Examiner Lindsay: My request is that you frame your questions so that they are fully understandable. That is all the request that I am making and I am not sustaining the objection for any other reason.

You may reframe your question.

Mr. Clark: I think I will leave that question just where [449] it is in the record.

Trial Examiner Lindsay: You may have the privilege of reframing it.

Mr. Clark: And go to another subject matter.

Q. At the meeting on the morning of November 17th did you make any suggestion or proposition to Mr. Gordon Hammond with respect to reducing the hours so as to stretch out or spread out the employment? A. I asked Mr. Gordon Hammond——

Q. (Interrupting): Will you please answer yes or no so we can have a clear record on it?

A. Could I have the question again, please?

(The record referred to was read by the reporter, as set forth above.)

The Witness: I would say that I made a suggestion, yes. [450]

Q. Will you please state what that was?

(Testimony of E. F. Prior.)

A. I asked Mr. Gordon Hammond if it was not possible to reduce the hours from 12 hours a day to probably 8 hours, and pointed out that in all the rest of the oil mills in the San Joaquin Valley they were working an eight-hour day, and along in the discussion I jointed out that we had met similar situations in other plants and even it had been agreed to, in some instances, one particular plant in the South, where—among the employees working there and the management—that each man had worked three days a week so that they would all have at least a part of a loaf rather than a few having all of the loaf and the others going hungry.

Q. All right.

Now, you stated all that to Mr. Gordon Hammond?

A. Yes.

Q. What was the name of the plant in the South you have just referred to where that was done?

A. The Copra Oil Mill Company in Wilmington.

Q. And what other plants did you have in mind in stating to Mr. Hammond that similar arrangements had been made in other cotton gins or the cotton seed mills?

A. I think that I told Mr. Hammond that the San Joaquin Cotton Oil Company, both at Bakersfield and at Chowchilla had, during the shut-down period last year, rotated the work among all of the employees that were not successful in getting [451] full time employment elsewhere.

Q. I see.

(Testimony of E. F. Prior.)

In connection with the firm you last mentioned, Mr. Prior, will you please state whether or not you are familiar with the extent of its operations with respect to the number of months during the year that the gins or mills run?

Mr. Mouritsen: I object to that as incompetent, irrelevant and immaterial, and not tending to prove or disprove the issues of the case.

Mr. Clark: I think it has a direct bearing on it, your Honor.

Trial Examiner Lindsay: He may answer the question, if he knows.

The Witness: It is considered to be an average season, crushing cotton seed of from six to seven months, so the employees have told me, and the management, since the Fall of 1937.

Mr. Clark: Yes.

Q. But here is specifically what I am after.

Do I understand that you have contacted the management of the Bakersfield firm you have just mentioned on behalf of another Local Union of cotton gin workers?

Mr. Mouritsen: Objected to as immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: It is preliminary. [452]

Trial Examiner Lindsay: Sustained.

Q. By Mr. Clark: Well, do you know, Mr. Prior, whether or not in the case of the Bakersfield firm which you mentioned to Mr. Hammond there was any time during the season of 1937 to 1938 that

(Testimony of E. F. Prior.)

the entire operations was closed down, and no men were employed?

A. No, I do not—beg pardon—could I have that?

(The record referred to was read by the reporter, as set forth above.)

The Witness: Yes, I do know that.

Q. By Mr. Clark: That that was true of that time, isn't that true? A. It was not true.

Q. That is was not true?

A. I know the answer.

Q. Well, let us have the answer.

A. At the same time it is not true. There was no time during the Summer of 1938 that the entire crew was laid off in the Bakersfield plant, the Bakersfield San Joaquin Cotton Oil plant.

Q. All right.

Now, was there a time, though, during the year 1937, that is from September, 1937, to the summer of 1938, when only a skeleton crew was maintained at the Bakersfield plant?

Mr. Mouritsen: This is objected to as immaterial. [453]

Trial Examiner Lindsay: Well—

Mr. Clark: I will have to develop it by the people from that firm. I am asking only for this gentleman's knowledge. I think he said—

Trial Examiner Lindsay (Interrupting): Mr. Clark, just—

Mr. Clark (Interrupting): Please, Mr. Exam-

(Testimony of E. F. Prior.)

iner, let me complete my statement for the record. I have that right, at least.

Trial Examiner Lindsay: All right, if you have a reason for stating your reasons for asking the question, but we are not trying the Bakersfield company, and it is not material in this issue.

Now, let us proceed in an orderly manner, and if you wish to make a statement for the record, after I have sustained an objection, just kindly ask that the objection be stricken on the record, that you would like to make a statement, but before I finish making my statement you start interrupting me. Now, let us understand one other thing, that I am not going to have that done any more. By that I mean that you have a perfect right to make any statement that you think is material to this issue for the record, and if you conduct yourself as an attorney would in most of the courts, and kindly ask that you hadn't had a chance to make your statement, and ask that you now have that opportunity, it will always be granted. No attorney has a right to constantly cut off remarks that are being attempted [454] to be made, at least by the judge in charge.

Now, let it be fully understood that there is only one person who is conducting this hearing. At different times, I have kindly requested that you re-frame the question, and you have stood on your question. The question may, in your mind, be clear to you, but it may not be clear to me, and I believe I have a right to ask my attorney to re-frame his question at any

(Testimony of E. F. Prior.)

time. I do not intend to take any sarcastic remarks from anyone.

Now, if you have a statement to make, Mr. Clark, you may get up and make it.

Mr. Clark: Very well.

I simply wish to find out, your Honor, that in this witness's cross examination, in answer to a question just put to him, he has stated, as I understand it, that on the morning of November 17th he called Mr. Gordon Hammond's attention to certain other firms or operations in which or with respect to which he had prevailed upon the management to reduce hours and stretch out the work, and I think in that connection he specifically referred to one firm in Los Angeles, and also to this firm in Bakersfield.

Now the purpose of my question is solely to point out and to establish, if I can, through this witness, that those operations to which he referred and which he used as an illustration in his talk with Mr. Hammond were totally different than the one [455] conducted by the Boswell Company at Corcoran, and with respect to which he was then suggesting to Mr. Hammond that the same thing be done and the work spread out even to the point, as, I think he said in the case of the Los Angeles firm, of the men being reduced to three days' work a week.

Now, if this witness does not know the facts concerning those other operations, that is, the one at Bakersfield, with respect to whether they were year-round operations or only seasonal, why, of course,

(Testimony of E. F. Prior.)

he can't testify to it. [456]

Trial Examiner Lindsay: Yes.

Mr. Clark: It was only my purpose to elicit his knowledge if I could in that regard, in view of the fact that he had actually contacted them and presumably knew something of the type of the operations so as to relieve me from the necessity, if I think it material later on, to submit the evidence to your Honor's ruling, of getting people up from those places to describe their operations.

That was my sole purpose. I didn't intend any disrespect to you Honor at all by it.

Trial Examiner Lindsay: Well, my reason for my statement was some of the things that you did here yesterday and some of the things you snapped at me yesterday on, and I just merely don't want that done. These are United States Government hearings and they are on a par with any Federal Court. All I want attorneys to do is to conduct themselves just as they would in the Federal Court. We owe that to the United States Government and that is my only purpose. I just can't have that thing being done by anyone.

Do you understand that last question?

The Witness: I understand what the attorney is trying to get, the information that he wants.

Trial Examiner Lindsay: Well, you may answer. I will permit you to answer.

Mr. Mouritsen: It is understood this is over my objection, Mr. Examiner?

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: Yes.

The Witness: Would you please read the question again?

(The record referred to was read by the reporter, as set forth above.)

Q. By Mr. Clark: If you know, Mr. Witness.

A. The oil mill at the Bakersfield plant when the seed had been—the supply of seed had been exhausted from their storage space of seed, the oil extraction process of the oil mill at Bakersfield ceased, and it has been a practice that there is certain wear and repairs and quite often replacement with a certain amount of new machinery that they keep a crew on throughout the entire shut-down period.

Q. For the purpose of repairing this machinery?

A. Yes.

Mr. Mouritsen: Now, Mr. Examiner, I move to strike the answer on the ground that it is totally unrelated to these issues. If the purpose is impeachment, which I assume it is, it is impeachment on a very collateral issue that can have no possible bearing on this case. If the witness made such a statement to the management, if he was honestly mistaken, if the facts should prove contrary to his statement, it would still be impeachment on a collateral issue that can have no bearing on this case.

In several instances, and also yesterday, counsel has [458] been given great lee-way in going into matters with the witness, and it will prolong the hearing indefinitely; and I submit that the position of the

(Testimony of E. F. Prior.)

Board in this matter is that we should confine ourselves to the issue in this matter in order that the facts may be developed expeditiously and as soon as possible in order that the hearing won't be dragged on for several months.

Mr. Clark: It is not intended as impeachment, Mr. Examiner, at all. I am simply trying to ascertain the facts concerning these other firms which were used as examples by Mr. Prior in his discussion with Mr. Gordon Hammond so as to establish clearly in this record the reason for the uprising, if we can call it that, of the other 90 odd percent of the employees on the following morning. That is the purpose of it.

Trial Examiner Lindsay: Well now, the thing that I particularly think is objectionable is that I am constantly met with your testimony in your questions and in your statements. Now, I only want the testimony from the witnesses who come up here and take an oath whenever they testify. Now, I don't know whether there were 90 percent, 60 percent, 80 percent, or 40 percent. There is nothing in the record as yet of any percentage of any employees, and I will disregard that statement as to the 90 percent.

Now, the only testimony that we are interested in is the [459] facts from witnesses who come up here and testify. Now, I think you have gone into that question far enough, Mr. Attorney, the situation with those other companies. I have permitted you to develop that. The last answer, I believe, clears it.

(Testimony of E. F. Prior.)

You may proceed.

Mr. Clark: The objection is overruled? The answer was in, Mr. Examiner, you see, and Mr. Counsel made the objection afterwards.

Trial Examiner Lindsay: Yes.

Mr. Clark: I will abandon that from this point on.

Q. At the time you talked to Mr. Hammond on the morning of the 17th in the presence of these other gentlemen whom you have named you, of course, knew that—withdraw that.

What response, if any, did Mr. Hammond make to your suggestion?

A. Mr. Hammond said that he would give the matter consideration and see if he couldn't work something out.

Q. Did he say anything to you at that time, Mr. Prior, with respect to starting only two of the gins on the following morning at 6:00 o'clock?

A. I don't recall that he did.

Q. Did he say anything to you on that occasion, namely, the morning of November 17th, with respect to starting two of the gins later on the following morning, namely, at 10:00 [460] o'clock?

A. There was something said in regard—by Mr. Hammond in regard to how he might work it out, but not in the words that you put it.

Q. All right.

Will you please give us what he said in that regard and in this connection you will understand, Mr.

(Testimony of E. F. Prior.)

Prior, that all I am after is the substance of these conversations. I don't expect you to remember them verbatim. Neither does his Honor nor anyone here. Give us as near as you can remember then the substance of what was said in connection with the subject you last mentioned.

A. Mr. Hammond did state that they were having to shut down one or two of the gins; the cotton was not coming in quite so fast now as it had previously, and that he might, by reducing the hours, be able to work out some program, possibly staggering the hours, and spread the employment out.

He was giving the matter consideration and, as we understood it, trying to formulate some plan that might work.

Q. Yes.

Now, did he—withdraw that.

Was he more specific with you on that morning, namely, November 17th, than you have just stated? And by that I mean did he indicate any starting times for the following morning with respect to any number of the gins or any closing times? [461]

A. I don't recall that he did.

Q. But you do recall that he discussed that subject generally, is that right?

A. Yes, it was discussed generally.

Q. Did you make any counter suggestions to him concerning what might be done in that regard?

A. No, other than the suggestions that I previously mentioned, simply pointing out how the problems

(Testimony of E. F. Prior.)

had been met by the management and the employees and that they had worked satisfactorily.

Q. I see.

In pointing out these other examples to Mr. Hammond, did you specifically call his attention to the situation of the company which had reduced the work to three days a week for all of its employees instead of keeping on a fewer number?

Mr. Mouritsen: I object to this, Mr. Examiner. This is the second or third time that this same ground has been covered. We are simply wasting time.

Mr. Clark: No. I am sure it isn't the third; and I am trying to find out whether he specifically called——

Trial Examiner Lindsay (Interrupting): You have gone into that at least twice. Proceed with the examination.

Q. By Mr. Clark: Did you call that specifically to Mr. Hammond, discussing the three days a week?

A. No, it was in the general discussion, simply pointing [462] out conditions that did exist at other places and the result of those conditions.

Q. Did he say anything to you during that conversation with respect to the policy of the Boswell Company—withdraw that.

Was that subject matter, then, Mr. Prior, left just as you described it to us, namely, that Mr. Hammond was going to try to work something out?

A. Yes.

Q. All right.

(Testimony of E. F. Prior.)

Now, prior to the morning of November 17th, two of the members of your union had been laid off, hadn't they?

A. There had been a number of them laid off prior to November 17th, yes. The exact number I couldn't state at all.

Q. All right.

Did you discuss any of those men with Mr. Hammond on the morning of the 17th?

A. Not that I recall in relation to reinstating them, or, that is, putting them back on the job. I don't recall that we did.

Q. I see.

As I correct, then, in stating that the only other general subject which you discussed with Mr. Hammond on the morning of the 17th was the reports that certain employees were stating that the company was opposed to other employees [463] joining your union?

A. That the foreman of the company was making those statements, yes.

Q. Yes.

The thing I am after is this: Was that the only other general subject which you discussed with Mr. Hammond on the morning of the 17th, you see, beyond the one we have just exhausted?

A. As the committee understood, we had two specific subjects.

Q. Yes. What were they?

A. The matter of reducing the hours and the mat-

(Testimony of E. F. Prior.)

ter of the alleged intimidating remarks by the foreman of the company.

Q. All right.

Tell us whether we have exhausted substantially everything that was said during the conversation on the morning of November 17th respecting the reducing of the hours.

Trial Examiner Lindsay: That question to me was, did you say anything other than that at that specific meeting.

Q. By Mr. Clark: Substantially.

A. Substantially, I would say that that covered it.

Q. All right.

Let us pass on to your second main subject. And before I get there, let me ask you, Mr. Prior, whether I am correct in stating, then, that nothing was said during this conversation [464] concerning these other members of your organization who had been laid off a few days previously?

A. Outside as it was mentioned to Mr. Hammond that we knew a number of employees had been laid off and it was understood that there was probably going to be more laid off. It was pointed out to Mr. Hammond that we understood the circumstance, that their acreage was much smaller this year than it had been the preceding year, and that the tonnage handled was going to be much less than it had been the preceding year, and that all we were trying to do was, if possible, to work out some plan of coopera-

(Testimony of E. F. Prior.)

tion that would benefit both the union employees and the non-union, that we were not making any attempt at all whatsoever to discriminate against any of the employees. [465]

I remember that that discussion was had, and we always referred to it and thought of it more or less of a general conversation in discussing the specific matter, namely, the reduction in hours that we were talking about at that time.

Q. Yes.

And was that the only reference, then, made to the men who had been laid off prior to November 17th? It was just in that general connection, wasn't it?

A. Yes.

Q. All right.

Now, will you please tell us what was said with respect to the alleged discrimination against employees for joining your Union?

A. Mr. Spear told Mr. Hammond that a number of the employees had informed him that Mr. Tommy Hammond and Mr. Joe Hammond was telling them that they would lose their jobs if they joined the Union, or that the Company would shut down, and as he stated, a number of intimidating remarks, and we know, and we know that Mr. Hammond knows that that is a violation of the law; and we believed the only fair thing to do was to call it to his attention and see if something couldn't be done about it.

Generally, that was the report Mr. Spear made.

Q. Yes.

(Testimony of E. F. Prior.)

A. Mr. Hammond stated—— [466]

Q. (Interrupting): I am going to ask you that question.

What, if anything, did Mr. Hammond reply to that?

A. Mr. Hammond stated that no one was authorized to hire or fire, or had any authority other than himself, to which I interposed, then, and asked Mr. Hammond if it was not true that he gave the orders to Mr. Tommy Hammond or Mr. Joe Hammond for them to pass on to the employees in the various departments, and that he held Mr. Tommy Hammond and Mr. Joe Hammond responsible to himself for seeing that his orders were carried out. To which Mr. Hammond replied, "Yes."

Q. Now, let us see about that, Mr. Prior.

Do you mean to tell us that you asked Mr. Hammond whether he had not instructed Mr. Tommy Hammond and Joe Hammond to make these intimidating remarks of which they were accused?

A. I did not intend to infer that.

Q. No? That is what I wanted to be clear about.

A. The question had been raised on numerous occasions as to the status of Mr. Tommy Hammond and Mr. Joe Hammond.

Q. I see.

Go ahead and finish.

A. And I wanted, and I believe I so stated to Mr. Gordon Hammond, that we wanted a clarification by someone in charge as to their exact status.

(Testimony of E. F. Prior.)

whether or not they were in a position to give orders and to issue orders after the orders had been given to them by Mr. Gordon Hammond. And that was cleared up, [467] we figured.

Q. To what order did you refer? Orders pertaining to the operation of a gin, or the running of the mill? That is, things done during the mechanical operations of the plant on any given day?

A. To the operations and the direction of the men in their work.

Q. I see. All right.

Now, as I understand you, then, Mr. Prior, when you called these alleged remarks by Tommy and Joe Hammond to the attention of Mr. Gordon Hammond on the morning of November 17th, his reply was in substance that neither of them were authorized to hire or fire anybody in the company, isn't that right?

A. That is what he said.

Q. Did he say anything with respect to their not being authorized to make any such statements on behalf of this Company?

A. He stated that they were not authorized to make those statements, and that he would talk to them about it.

Q. I see.

Now, I then understand that you thereupon asked Mr. Gordon Hammond whether or not Tommy and Joe Hammond were the people who carried his orders out to the men, in effect?

A. Not after he stated that he would talk to them.

(Testimony of E. F. Prior.)

That was before that he established the fact, or rather had Mr. Gordon Hammond's statement that they were in authority as far as di- [468] recting the activities of the men in relation to their work.

Q. All right.

Now, I take it that the statement you have just referred to was made by Mr. Gordon Hammond in the way you first testified to, namely, that his affirmative answer to his question as to whether or not these men were those persons who were authorized to carry out his orders to the men——

Trial Examiner Lindsay (Interrupting): I think we have gone into that in several different ways.

Mr. Clark: I only have to go back, Mr. Examiner, and remove that last conclusion from the record, because that isn't, obviously, consistent with this gentleman's testimony with what this gentleman said concerning Mr. Tommy and Joe Hammond.

Trial Examiner Lindsay: Mr. Clark, you have your side of the case to put on, and this witness has told you several times what the conversation was between his committee and Mr. Hammond, and you have gone over that three times. Let us proceed and not go into a thing so many times.

Mr. Clark: I am apparently getting something in addition each time, your Honor, and I would like to have the conversation.

Trial Examiner Lindsay: The record doesn't show that.

Mr. Clark: May I have the last question?

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: Yes.

(The question referred to was read by the reporter, as set [470] forth above.)

Trial Examiner Lindsay: Will you kindly reframe that question?

Mr. Clark: Yes.

Trial Examiner Lindsay: I honestly can't follow that record.

Mr. Clark: I can't either the way it is down there.

Trial Examiner Lindsay: Those long questions. Proceed.

Q. By Mr. Clark: Tell us, will you please, Mr. Prior, again, then, what Gordon Hammond said so far as the authority of Tommy and Joe Hammond were concerned?

A. Well, I asked him if it was not true that he had issued orders to Mr. Tommy and to Mr. Joe Hammond and that if he did not hold down his—in substance, I can't get the same words.

Q. I understand.

A. But that if he did not hold them responsible to him for seeing that those orders were passed on to the men and the work was performed by the men as he had given the orders to Mr. Tommy and to Mr. Joe Hammond.

And Mr. Gordon Hammond said that—either said, “Yes, that is true,” or “That is correct.” At any rate, he admitted that that was true.

Mr. Clark: Well, I ask that the statement, “He

(Testimony of E. F. Prior.)

admitted that that was true" go out and let us have what was said, Mr. [471] Examiner.

Trial Examiner Lindsay: I believe he was giving it in two different ways, and the last part may be stricken.

Mr. Clark: Very well. All right.

Q. When was it in the conversation, Mr. Prior, that Mr. Hammond told you that neither Tommy nor Joe Hammond were authorized to make these alleged statements to the men with respect to their joining your union?

Mr. Mouritsen: May I have the question read?

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to it on the ground it has already been asked and answered at least twice.

Mr. Clark: I want to know when it was; there was some discrepancy then.

Trial Examiner Lindsay: He may answer it again.

The Witness: In what part of the conversation you mean?

Q. By Mr. Clark: Yes.

A. As I understand—

Mr. Mouritsen: I object on the ground that the question is vague and indefinite and has no—it is too general as to what part of the conversation,

(Testimony of E. F. Prior.)

what is to be understood under what part of the conversation. [472]

Mr. Clark: Submit it.

Trial Examiner Lindsay: Well, the question merely means during the time you had this conversation with these gentlemen, with Mr. Hammond, was the statement he made regarding that matter made to you after you had asked him as to what authority these two men had, or before you asked him what authority they had? Am I right?

Mr. Clark: That is entirely correct in view of the remark made by Mr. Prior some moments ago.

The Witness: The point is I don't recall stating that he said they did not have authority to make those remarks. I do recall that he said in reply to Mr. Spear's statement that he told the committee that Mr. Tommy Hammond and Mr. Joe Hammond did not have the right to hire and fire.

Then I asked him in regard to their status as foremen, to which he replied that was correct.

Q. By Mr. Clark: Yes?

A. Then something—I can't recall just what it was—there was another remark that was made in reference to the statements, that is, these alleged remarks that they were alleged to have made.

Q. May I interrupt you right there while you still hold your thought?

Trial Examiner Lindsay: Let him finish his answer.

The Witness: And Mr. Hammond stated that if

(Testimony of E. F. Prior.)

they had made [473] such—I guess I did—Mr. Hammond stated that if they had made such a remark, they were not authorized to, and that he would talk to them.

Mr. Clark: Very well.

Trial Examiner Lindsay: Now we will have a recess.

Mr. Clark: Very well.

(At this point a short recess was taken, after which proceedings were resumed, as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Mouritsen: Mr. Examiner, in view of the fact that it will be necessary tomorrow that we give up the Legion Hall by 2:30 o'clock in the afternoon, I would suggest that we perhaps alter our meeting hour, perhaps starting a little earlier and take a shorter noon recess so that we can adjourn by 2:00 or 2:15 in the afternoon. I think that would be agreeable to counsel for the Respondents.

Mr. Clark: Yes, any arrangement.

Trial Examiner Lindsay: What is your pleasure for the morning hour?

Mr. Clark: I would say 9:00 o'clock instead of 9:30 and running through until 12:00, and then some short noon recess, and then run perhaps through until 2:15.

Trial Examiner Lindsay: All right. That is agreeable.

(Testimony of E. F. Prior.)

Mr. Mouritsen: I think that will be agreeable.

Mr. Clark: An hour, Mr. Examiner, between 12:00 and 1:00 [474] for lunch probably will be enough, and that will give us an hour and a quarter in the afternoon.

Trial Examiner Lindsay: All right.

Mr. Clark: Anything that is agreeable to the Examiner himself.

Trial Examiner Lindsay: All right. We will start at 9:00 in the morning.

Mr. Clark: May I proceed now?

Trial Examiner Lindsay: Yes.

Q. By Mr. Clark: Mr. Prior, did you make any report of this meeting of November 17th which was held in Mr. Hammond's office, to the other members of your Union, prior to 10:00 o'clock of the morning of November 18th? A. Yes.

Q. And was that at a Union meeting?

A. Yes.

Q. And am I correct in stating that that Union meeting was held on the night of November 17th?

A. Yes.

Q. Now, will you please tell us whether you made any report of the meeting of November 17th to any of the other employees at the Boswell Company, namely those who did not belong to your Union, prior to 10:00 o'clock on the morning of the succeeding day?

A. If there were any others that were not members of the [475] Union that attended that meeting

(Testimony of E. F. Prior.)

that night on November 17th, they did get the report. I can't say whether there were or were not.

Q. I see.

How many persons would you say were present at the meeting which you have called the Union meeting, on the night of November 17th?

A. I think approximately 20. I am not positive as to the number.

Q. All right.

Let me direct your attention to what I believe your direct examination shows with respect to the meeting held on the night of November 16th, that is the preceding night. Am I correct in stating that you said on your direct examination that there were approximately 20 persons at that meeting in addition to Mr. Martin and Mr. Farr and Mr. Spear and yourself?

A. I believe I testified that there were 20 or 30 persons at that meeting.

Q. All right.

Now, so that, if I understand you correctly, there were approximately 20 or 30 persons present at the Union meeting on the night of November 16th, and approximately 20 persons present on the night—at the Union meeting—on the night of November 17th?

A. Yes, as near as I can place the numbers. [476]

Q. I see.

Now, will you please tell us the names of as many as you can remember of the persons who were pres-

(Testimony of E. F. Prior.)

ent at the meeting on the night of November 16th, and to which you testified on your direct examination?

A. Well, that I recall, there was Mr. Spear, Mr. Martin, Mr. Farr—I remember Mr. Steve Griffin was there—and to be exactly accurate on them, I don't know. I have been in so *many* meetings I haven't made it a habit of noting many more than the officers, the immediate officers that were present at the meeting.

Q. Well, I am correct in stating, am I not, that in your direct testimony you testified that at this meeting on the night of November 16th there were the persons you have just named, with the exception, I believe, of Mr. Griffin, whom you did not name, and about twenty others?

A. Yes. Mr. Griffin may have been at the other meeting, I am not positive.

Q. I am asking you for your recollection of your testimony on direct examination?

A. Yes. I testified that Mr. Spear, Mr. Martin and Mr. Farr—I recall those that I did testify were present.

Q. And then I think you said there were about twenty others. Do you remember that?

A. I believe I did. [477]

Q. All right.

Now, are you unable then, Mr. Prior, at this time, to give us the names of any of these twenty other people who attended that meeting?

(Testimony of E. F. Prior.)

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I would like to give him another chance on it.

Mr. Mouritsen: Mr. Examiner, in this regard I think that counsel has been permitted leeway in this hearing that would be permitted in no other court that I have ever practiced in before; that he has been permitted to re-hash the same questions, to mis-state the evidence; that he has been permitted leeway that would be permitted in no other court in the land. This is another example of that same type of cross examination where he asks the same question four or five different ways, and repeats the same question, and it isn't fair to the witness. The witness is not being given credit by this Court that he is entitled to, and I object very strenuously to wasting our time in going over the same ground over and over, and I respectfully urge that the witness be given the protection that he is entitled to in a hearing of this kind, or in any other court. [478]

Mr. Clark: Well now, Mr. Examiner, may I make a statement for the record before there is any ruling, and particularly with respect to counsel's accusation of my misstating the record?

I would like to refer the Examiner to page 116 of this transcript at which appears the following question and answer, the question being put by Mr. Mouritsen of this witness:

(Testimony of E. F. Prior.)

“Q. Who were present at that meeting of the local?” (Referring to the meeting on November 16, 1938).

“A. Well, Mr. L. A. Spear, Mr. O. L. Farr, R. K. Martin that I recall, and a number of others, approximately 20 other men.”

Now this is cross examination. That question was asked for the purpose of laying the foundation for the conversation referred to. This is cross examination and I take it that I should be entitled to ask this witness the identity of the other 20. That is all I am trying to do, and with all deference to counsel, I expect that I have tried about as many cases as he has and I have yet to be accused by any court of misstating the record and of attempting to confuse witnesses and of asking questions that are impossible to understand. I will submit this record to the Circuit Court of Appeals when the proper time comes and let them pass on my conduct in trying this case. [479]

Trial Examiner Lindsay: Well, we have gone into that four or five different times. You may ask him again if you think it is material.

Mr. Clark: I asked the question, Mr. Examiner, and he said that he couldn't answer—the first time—that he didn't think he could, that he attended a lot of other meetings.

Trial Examiner Lindsay: I said you could ask him again. Very well. Proceed.

Q. By Mr. Clark: Let us have an answer to

(Testimony of E. F. Prior.)

the question, Mr. Prior, if you think you can give it. Can you name at this time any of the other 20 persons who were present at the meeting of November 16, 1938? A. No.

Q. All right.

Now, can you give us the names of any of the other 20 or 30 people—withdraw that.

Will you give us the names of any of the 20 people who were present at the meeting of November 17, 1938, that you have just testified to?

A. No, not that I recall.

Q. Can you state whether, with respect to the meeting of November 17th, and I am referring now to your union meeting on the night of November 17th, all the persons there were members of the union?

A. No, I couldn't state whether they were or whether they [480] were not.

Q. All right.

Now, yesterday you testified on your cross examination, Mr. Prior, that the charge which was filed by you with the National Labor Relations Board, that is, the Regional Director of the Twenty-First Region, upon July 21, 1938, was withdrawn during September of that year. Do you remember that testimony?

A. I remember that testimony, yes.

Q. And I think you said in that connection—you correct me if I am wrong—that you could not quite locate the date at the moment you were testifying.

(Testimony of E. F. Prior.)

Do you remember that?

Mr. Mouritsen: I object to the question as vague and indefinite; the date of the filing or the date of the withdrawal?

Mr. Clark: The date of the withdrawing of the charge.

Q. Do you remember that, that answer?

A. Yes, I remember the answer.

Q. All right.

Now, do you also remember that yesterday you testified, on your cross examination, that the date, whatever it was, upon which the charge of July 17, 1938, was withdrawn, was after your conversation with Mr. Hammond concerning the putting back to work of four union members along in October? Do you remember that? [481]

Mr. Mouritsen: I object to that question upon the ground it is vague and indefinite.

Mr. Clark: If the witness understands, Mr. Examiner, I believe he should be allowed to answer so we can get on here. I am simply trying to put it in his mind.

Trial Examiner Lindsay: He may answer.

The Witness: I recall testifying that as nearly as I could place the date that the charge was withdrawn after that meeting with Mr. Hammond. I am not positive on that date. It may have been—could have been before or it could have been after.

Q. By Mr. Clark: Well, in that connection, isn't it a fact that your reason for withdrawing the

(Testimony of E. F. Prior.)

charge on July 17th was that after you had had this conversation with Mr. Gordon Hammond you found that your union members would be put back to work as soon as new work opened up for them?

Mr. Mouritsen: I object to that as vague and indefinite.

Trial Examiner Lindsay: If he understands the question, he may answer.

The Witness: That is not correct in its entirety.

Q. By Mr. Clark: Well, let me ask you this direct question:

Isn't it a fact that the meeting with Mr. Gordon Hammond to which you were referring, and have just referred, at which the re-employment of certain union members was discussed, was [482] held on October 8? A. On October 8, yes.

Q. All right.

Now, will you please tell us whether, having had that date called to your attention, is your recollection refreshed so that you can tell us whether the charge of July 17th was withdrawn before or after October 8th?

A. I couldn't make a positive statement as to the date of the withdrawing of that charge. In connection with the withdrawal of the charge, it was on advice of the—partially on advice of the field Examiner, Mr. Larson, that the charge was withdrawn, and for that reason I can't at the moment, anyway—and I couldn't yesterday—place definitely whether the date was before or after the conversation with Mr. Hammond.

(Testimony of E. F. Prior.)

Q. Well, what is your best recollection on it?

A. (Pause) The only way I could answer that is that it could have been two weeks previous to that time and it could have been as much as two weeks following that time.

Q. I see.

Now, will you please tell us whether a copy of the charge in your file or any other record in your possession would establish the date of its withdrawal for us?

Trial Examiner Lindsay: I believe his testimony was yesterday that he believed that he had it in his file.

Mr. Clark: Or any other record. [483]

The Witness: Since the testimony yesterday, I checked my file on that particular charge. That charge was filed with the Twenty-First Region.

Q. By Mr. Clark: Yes?

A. I discussed the allegations with the Director of the Twenty-First region and stated that I—asked him which region had jurisdiction. He stated, on checking the map, that Corcoran was in the Twentieth Region.

Q. That is with head offices at San Francisco?

A. With the head office at San Francisco. I stated that inasmuch as our office was located in Wilmington, it was much more convenient for me if the charge could be handled out of the Twenty-First Region.

He stated that I could go ahead and make the

(Testimony of E. F. Prior.)

charge and requested that I accompany the charge with a letter setting forth my reasons for wanting it handled in the Twenty-First Region and that he would see what Washington said about it, which was done.

On or about, I believe, the 2nd of August, the early part of August at any rate, I was in the office of the Twenty-First Region on some other matters and the Director of the Twenty-First Region there told me that he had a letter in reply from Washington stating that the case would have to be handled in the Twentieth Region and asked me if I would withdraw the charge and re-file, which would save the transfer from [484] the office there, which I immediately, while in his office, signed a withdrawal blank and filled in the necessary blanks and signed the withdrawal.

Subsequently, the following day or so, I made out a similar charge and mailed it to the office of the Twenty-First Region——

Q. (Interrupting): Twentieth Region?

A. The Twentieth Region is correct, in San Francisco on Market Street.

In response to the sending, the forwarding of that charge to the Twentieth Region, the Director of the Twentieth Region wired me that Mr. Larson, field Examiner, could meet me at Corcoran on either the 31st of August or the 1st of September and make an investigation, at which time I met him at noon in Corcoran on the 31st. That I recall.

(Testimony of E. F. Prior.)

He investigated the allegations set forth in the charge here at Corcoran and investigated another charge that I had filed pertaining to another company here, that is, in this district, and advised me he felt there was not sufficient evidence to warrant, or at least it was impossible to secure sufficient evidence to warrant the issuing of a complaint and requested that I withdraw the charge within a couple of weeks. I do recall receiving——

Q. (Interrupting): May I ask you there, did he request that you withdraw it in a couple of weeks, or was the request made [485] of you within a couple of weeks?

A. No, he requested that I wait a couple of weeks and see if there were any other developments and if the situation had changed in any way, and if there were no further developments, he requested that I withdraw the charge.

Q. I see.

A. And I know—I say “I know”—it runs in my mind that I did receive a letter or two, more or less form letters, from Mrs. Rossiter, requesting that pursuant to the conversation with Mr. Larson that I withdraw the charge. I do know that it was later than the two weeks following the investigation by Mr. Larson that I withdrew the charge, but on what date I cannot now for the life of me state.

Q. Mr. Prior, how long was Mr. Larson down here at Corcoran with you commencing August 31st or the 1st of September?

(Testimony of E. F. Prior.)

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: I am trying to fix the date as best I can of the withdrawal.

Trial Examiner Lindsay: I think we have gone into that far enough. You may proceed.

Q. By Mr. Clark: How long was he down here with you?

A. He came in here at noon. While having lunch I outlined the reports that Mr. Gilmore and the conversations that I had had with Mr. Farr—in fact, I think Mr. Farr had lunch with us—and told him that we understood that the night of the [486] meeting of July 13th it had been reported to me—

Trial Examiner Lindsay (Interrupting): Just a moment.

Mr. Clark: I am not concerned with that. I want to know how long he was here.

The Witness: How long he was here?

Q. By Mr. Clark: Yes.

A. Well, we separated immediately after lunch and he said he would go down to the company's office. As I understand it, he was here all of that afternoon.

Q. Was he here only the one day so far as you know?

A. The one day. I know I met him that night in Fresno.

Q. And was it at that time or on that occasion that he requested you to drop the charge because of insufficiency of the evidence?

(Testimony of E. F. Prior.)

A. It was either that night or the following day when we were discussing it and also another case.

Q. I see.

And you think it was some time then more than two weeks after September 1st or your having received that advice that you actually dismissed the charge?

A. I am positive that it was more than the two weeks because I did receive a communication from Mrs. Rossiter regarding that.

Q. I see.

Mr. Mouritsen: Have you established the identity of Mrs. [487] Rossiter?

Mr. Clark: Well, Mrs. Rossiter is the Regional Director of the Twentieth Region, is that not correct?

Mr. Mouritsen: Yes, that is correct.

Mr. Clark: Very well. So stipulated.

Q. Now you, of course, the record—withdraw that.

By whose authority did you ultimately withdraw the charge of July 17th?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained. We have gone into that now quite thoroughly.

Proceed.

Mr. Clark: May I make a statement, Mr. Examiner, in respect to that question, and ask that the ruling be stricken and reserved until I make the statement?

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: Yes. Strike the ruling.

Mr. Clark: My purpose in asking the question is merely to find out whether this charge was made by Mr. Prior on behalf of any employees of Boswell and Company or on his own behalf, and I take it that the authority by which you withdrew it is indicative of that proposition.

Trial Examiner Lindsay: Now, first of all, the charge, if there was any—apparently there was—was withdrawn. We have no issue based on something that does not exist. I am [488] exceedingly lenient in letting you even go into it, and I request that you, having had the opportunity to go into it, which has been gone into fully, that you proceed on something else, Mr. Attorney. [489]

Mr. Clark: Very well. I won't press that.

Q. Mr. Prior, subsequent to your meeting of the morning of November 19th—may I have that stricken, your Honor, and commence over?

Trial Examiner Lindsay: Yes.

Q. By Mr. Clark: Subsequent to your meeting of the morning of November 19th with Mr. Robinson and the other gentlemen whom you named, in the office of the Boswell Company here at Corcoran, did you have a further meeting with Mr. Robinson on or about November 28th?

A. Yes, I did; on or about November 28th.

Q. Yes.

You have that particular occasion or incident in mind, haven't you?

(Testimony of E. F. Prior.)

A. Not right at the moment, I don't. Yes, I believe I do recall it.

Q. Do you recall testifying to such a meeting on direct examination, do you? A. Yes.

Q. Now, will you please tell us the occasion for that meeting?

A. To further endeavor to have the employees who had been evicted from the plant on November 19th placed back on the payroll of the Company.

Q. Do you remember who was present at that meeting? [490]

A. As I recall, it was Mr. R. K. Martin. If I have the correct meeting in mind, that was at the time Mr. Martin was with me in Mr. Robinson's office; and Mr. Robinson, of course, and myself.

Q. And were any others present?

A. At the meeting of November 28th, if I have the date fixed right, there was none.

Q. Wasn't the meeting of November 28th which you are referring to or which you have in mind, the last meeting held with Mr. Robinson, that is, Mr. Louie Robinson, prior to the meeting of January 17th, referred to in the testimony, which is in evidence? A. Yes, I believe that is correct.

Q. Yes.

Now, does that refresh your recollection somewhat with regard to this particular occasion?

A. Yes, that helps me place the meeting.

Q. Can you now state whether any persons other than those you have mentioned were present at that meeting?

(Testimony of E. F. Prior.)

A. Mr. Robinson, Mr. Martin and myself.

Q. All right.

Now, will you please tell us what, if anything, you said at this meeting of November 28th to Mr. Robinson, with respect to the members of your Union?

A. I told Mr. Robinson that we felt that the men had been dis- [491] criminated against, and we wanted to discuss the matter and see if something couldn't be worked out to clear up any misunderstanding that might be had, and to wipe the thing off and put these men back on the payroll, that we felt they were entitled to be, under the law.

Q. All right.

Was it prior to that time that you had been advised by Mr. Robinson, or was it on that occasion when Mr. Robinson advised you of the notice which Mr. Larson had O.K'd, and which was to be posted in the plant?

A. I believe there was some discussion in regard to that notice at that meeting.

Q. All right.

Was there any discussion in regard to that notice between you and Mr. Robinson prior to this meeting of November 28th?

A. I believe not. I do not recall any meeting between November 19th with Mr. Robinson, and November the 28th.

Q. All right.

Will you please tell us what you remember at this

(Testimony of E. F. Prior.)

time of the discussion regarding the notice which took place at the meeting of November 28th between you and Robinson?

A. As I recall it, I asked Mr. Robinson—or I think I, rather, stated to Mr. Robinson it was reported to me that the notice had not been posted according to Mr. Larson's suggestion. Mr. Robinson stated that it had been. And I told him [492] that my understanding with Mr. Larson was that the notice was to be placed or posted in all departments of the plant. And Mr. Robinson stated that his understanding was that on the office bulletin board was sufficient.

Q. Was that the extent of the conversation concerning the notice?

A. Generally, as I recall it, it was.

Q. During this conversation on November 28th between you and Mr. Robinson, did you call his attention or refer to a conversation you had a few days previously, with Colonel Boswell in Los Angeles?

A. Yes, I believe that I did.

Q. The conversation had with Boswell.

And in that connection, did you mention this notice?

A. I told Mr. Robinson that we had discussed that notice, yes.

Q. That is, that you and Colonel Boswell had?

A. Yes, that Colonel Boswell and I had discussed the notice.

(Testimony of E. F. Prior.)

Mr. Mouritsen: Mr. Counsel, may we establish who Mr. Colonel Boswell is?

Mr. Clark: Colonel Boswell is the president of the Respondent, Boswell Company, in Los Angeles, J. G. Boswell Company.

Trial Examiner Lindsay: What is his first name?

Mr. Clark: J. G. Boswell.

Trial Examiner Lindsay: May I have his first name spelled? [493]

Mr. Clark: His first name is James.

May I have the last question read?

Trial Examiner Lindsay: Yes.

(The question referred to was read by the reporter, as set forth above.)

Q. By Mr. Clark: Now, will you please tell us what you said to Mr. Robinson on November 28th regarding your conversation with Colonel Boswell in Los Angeles?

A. I don't recall what I told him other than that I do recall that I mentioned that Colonel Boswell and I had discussed it.

Q. Didn't you tell Mr. Robinson on November 28th that Colonel Boswell had said to you a few days previously in Los Angeles, that the policy of the Company, that is, J. G. Boswell Company, was stated in that notice, or words to that effect?

A. I don't recall whether I made that statement to Mr. Robinson or not. Colonel Boswell stated that.

Q. Isn't that how the notice happened to come

(Testimony of E. F. Prior.)

up for discussion between you and Louie Robinson on November 28th? A. I don't know.

Q. You don't remember that?

A. I don't recall, no.

Q. All right.

Just so we can clear it up, let me ask you this: It is a fact, isn't it—well, I don't want to get into that. I will withdraw that, Mr. Examiner and go back to it in its proper [494] place.

What, if anything, did Mr. Robinson state to you on the morning of November 28th with regard to your Union members?

A. In regard to the re-employment of the Union members?

Q. Yes.

A. He asked me just who I had reference to. I said, "Well, we will name them." And I named Mr. Spear; and Mr. Robinson said, "Well," he says, "there has been some work we could have used Mr. Spear on since he has been off, and we can use him from time to time as there is work for him."

And he wrote Mr. Spear's name on a pad.

Then I called the name of Mr. Martin, Mr. R. K. Martin, and Mr. Robinson laid his pencil down and he said, "Now, there is no work. The operation that Mr. Martin was on has definitely shut down, and there is no work for Mr. Martin."

Q. Did you know what Mr. Martin had been doing?

A. I understood he was working in the gins that season.

(Testimony of E. F. Prior.)

Mr. Mouritsen: I move that the answer go out as hearsay.

Trial Examiner Lindsay: It may stand.

Mr. Clark: I didn't hear the Examiner's ruling.

Trial Examiner Lindsay: I said it may stand.

Mr. Clark: Go ahead.

The Witness: Where was I?

Mr. Clark: I will reframe the question.

Trial Examiner Lindsay: Let him finish. [495]

The Witness: What was the question?

Trial Examiner Lindsay: You were naming those individuals that you named to Mr. Robinson at that meeting.

Mr. Clark: And we started with Spear, and we are now with Martin.

The Witness: Mr. Robinson laid his pencil down and stated that the work that Mr. Martin had been on had definitely shut down, and that they could not use Mr. Martin; that they might at sometime later use him, but that it was indefinite.

Q. By Mr. Clark: Now, were any other individuals named by you or discussed by Mr. Louie Robinson on this occasion?

A. When Mr. Robinson made that statement in regard to Martin, I stated to Mr. Robinson, I says, "Well, Mr. Robinson, unless all of these employees are going to be given consideration—they have all been given the same treatment. They are all evicted—and unless all of these employees are going to be given the same consideration, there is no need of

(Testimony of E. F. Prior.)

discussing the matter further. We are wasting your time, and we are wasting ours.”

Q. And what happened after that?

A. In substance, the conference ended, and we left either immediately or very shortly after that.

Q. I see.

And you did not name any others, then, of the members of your Union? [496]

A. I did not.

Q. In response to Mr. Louie Robinson’s prior request—your answer is, “No, I did not”?

A. That is correct.

Q. At that time did you know that these men who were members of your Union and whom you claim were evicted on November 18th from the plant of J. G. Boswell and Company here in Corcoran had been receiving wages from the Company?

Mr. Mouritsen: May I have the question, please?

Mr. Clark: Continuously after November 18th?

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial, calling for hearsay from this witness.

Mr. Clark: May I make a statement, Mr. Examiner, before the ruling?

Trial Examiner Lindsay: It isn’t necessary.

He may answer the question. If it were more specific, because the testimony shows yesterday that—

(Testimony of E. F. Prior.)

Mr. Clark (Interrupting): Very well, I will withdraw it.

Q. At that time, Mr. Prior, namely, on November 28th, did you know that Mr. Farr and the others who had left the plant on November 18th had continued to receive money from Boswell and Company?

A. I knew that some of them had, because we had had photo- [497] static copies made of some of the checks.

Q. I see.

Do you remember who had?

A. Mr. Martin and Mr. Farr were two that I believe—I know that Mr. Martin did—and I believe that Mr. Farr and a number of others of them.

Q. How about Mr. Spear?

A. I am not positive whether Mr. Spear did or not. We had the copies.

Q. How about Briley?

A. I am not sure whether a picture was made of Mr. Briley's or not.

Q. I mean, did Briley receive any such checks, so far as you know?

Trial Examiner Lindsay: Well, I believe all of this testimony is in the record of Board's Exhibit 3.

Mr. Mouritsen: That is correct, Mr. Examiner. [498]

Mr. Clark: Yes, that is right.

Q. As a matter of fact, Briley went back to work in a couple of days, didn't he, at the plant?

(Testimony of E. F. Prior.)

A. The date that Mr. Briley returned I don't know. It may have been 30 or 40 days later. I don't recall how long.

Q. Well, please tell us whether or not on November 28th when you were talking to Mr. Louis Robinson you knew that Joe Briley, one of your members, had returned—had already returned to work at the plant.

Mr. Mouritsen: Objected to as assuming a fact not in evidence, Mr. Examiner. I submit that counsel is out of order in that he incorporates in his questions testimony that has not been presented to this hearing and makes it a part of his question, and in effect testifying.

Mr. Clark: Oh, well, I am—I will submit that, your Honor. This is cross examination and I have a right to ask this witness whether certain things happened whether he has testified to them or not.

Trial Examiner Lindsay: He may answer.

The Witness: I don't know whether Mr. Briley was on the payroll on that date or not.

Q. By Mr. Clark: Pardon me.

I am asking you for your knowledge on November 28th. I am only after what you knew about Joe Briley with respect to his re-employment, if any, on that date, November 28th. [499]

A. I may have—, if he was on the payroll on November 28th, I may have knew it on November 28th, but today I don't know what date Mr. Briley was on the payroll.

(Testimony of E. F. Prior.)

Q. I am not only asking you for his being on the payroll—

Trial Examiner Lindsay (Interrupting): He means back to work.

The Witness: Yes, that is right.

Q. By Mr. Clark: How about Galvan and however you pronounce—I will have to get the charter to get the pronunciation.

(The document referred to was passed to Mr. Clark.)

Q. By Mr. Clark: Now, on November 28th—when you were talking to Mr. Louie Robinson, did you know whether or not Manuel Escobado or Peter Galvan had returned to work prior to that time?

Mr. Mouritsen: Objected to as immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: May I have that question?

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I don't recall any discussion in regard to those individuals or whether they were or were not working.

Q. By Mr. Clark: Well, I understood you to say that you were calling on Mr. Robinson on behalf of the members of your [500] union and for the purpose of getting them reinstated in their employment, isn't that true?

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: It means those that have not been returned to work, I assume.

Q. By Mr. Clark: Well, didn't you know what members of your union had not been returned to work?

Trial Examiner Lindsay: He may answer.

The Witness: The conversation was entirely pertaining to the 7 men who had been evicted from the plant on November 18th.

Q. By Mr. Clark: Wasn't Briley one of those men? A. He was.

Q. Well, the fact is, isn't it, Mr. Prior, that when you were told by Mr. Robinson that Martin's particular job had become exhausted or that that operation had given out, you then told Mr. Robinson that if Martin wasn't taken back, then nobody would come back to work?

A. It is possible that I made that statement.

Q. Isn't that the substance of what you did say?

A. I wouldn't say that was the substance. It is possible I made that statement.

Q. Isn't that just what actually happened?

A. To the best of my knowledge, there was never but two of them offered employment.

Mr. Clark: Well, may I ask that that go out as not re- [501] sponsive? And if my question is susceptible of an answer, that the answer be given?

Trial Examiner Lindsay: Well, he has already answered it; but he may answer it again.

(Testimony of E. F. Prior.)

Mr. Clark: May I have it read?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I ask that that go out as not responsive; and answer the question.

Trial Examiner Lindsay: It may go out.

Mr. Clark: I will reframe it.

Q. Isn't that what happened, Mr. Prior, namely, that when Mr. Robinson told you that the work—that Martin's work had given out and that he, therefore, wouldn't be put right back to work, you refused to let anybody come back?

A. No, I didn't refuse to let anybody come back.

Q. Didn't you state to Mr. Robinson on that occasion that if he wouldn't put Martin back to work immediately then there was no use discussing it?

A. I told him there was no use discussing the matter further, yes.

Q. And hadn't he told you he could use Spear immediately? A. No.

Q. What did he say about Spear? [502]

A. He stated that there had been days in the past that Mr. Spear could have worked and that there would be work coming up occasionally from time to time that they could use Mr. Spear on.

Q. Didn't he tell you that he could use Spear right then? A. I—

(Testimony of E. F. Prior.)

Trial Examiner Lindsay (Interrupting): Just a moment. He has answered that question two or three times; and don't argue with the witness.

Mr. Clark: I am not arguing. I withdraw that. May I have an answer to it?

Trial Examiner Lindsay: You have already had the answer.

Mr. Clark: I am referring counsel to page 139 of the transcript.

Have you it?

Mr. Mouritsen: I have it.

Q. By Mr. Clark: Mr. Prior, I will show you an answer which purports to have been given by you at line 10, page 139 of the transcript of this proceeding, being the report of the testimony for May 19, 1939. I will ask you to read it commencing at line 8.

A. (Examining document.)

Q. Have you finished? A. Yes.

Q. Is that an accurate report of the testimony which you gave [503] before the Examiner on May 19, 1939, as it appears on page 139, line 8 of this transcript?

A. I would say that it is, yes.

Q. It is true, isn't it? A. Yes.

Mr. Clark: I think I had better, Mr. Examiner—it will only take a moment—I want particularly to read into the record at this time the following sentence:

“Mr. Robinson wanted to know who the men

(Testimony of E. F. Prior.)

were that we referred to that should be placed back on the payroll and I named—started to name the men. I named Mr. Spear and he said that as there was work from time to time that they could use Mr. Spear; that there had been times during the time of November 18 to that date that he would have worked a few days,''

that being on page 139, lines 13 to 19 of the transcript.

Do you know whether or not Mr. Spear ever applied back to the Boswell Company for any work after November 28th?

A. Not to my knowledge.

Q. Had you instructed him not to do so?

A. No.

Q. Did you instruct any of these men, that is, those whom you claimed were evicted on November 18, as shown by this record, not to apply to the company for work after your conversation with Mr. Robinson of November 28th? [504]

A. No.

Q. At the time the boycott which you testified to on your direct examination, I believe, was declared in January of this year, did you instruct any of the members of your union not to apply for employment to J. G. Boswell and Company?

A. No.

Mr. Mouritsen: That is objected to—(Pause).

Q. By Mr. Clark: Do you know whether or not

(Testimony of E. F. Prior.)

Mr. Farr or any of the other persons shown by this—withdraw that.

Do you know whether or not Mr. Farr or Mr. Martin or Mr. Wingo and Mr. Andrade ever applied to the J. G. Boswell and Company for employment after your conversation with Mr. Robinson on November 28th? A. I do not know.

Q. Did you instruct him not to make such application? A. I never instructed anyone not to.

Q. Very well.

Now, I believe you told us already, and I will ask you just to be sure about it, that this conversation of November 28th was the last conversation that you had with Mr. Louie Robinson until the conversation of January 17th which is referred to in the advertisement in evidence in this case as Boswell's Exhibit 3, I believe it is.

A. That is the only conversation that I recall, yes.

Q. Yes. [505]

Now, I want to direct your attention to a meeting a few days earlier, namely, on November 25th, between you and Colonel J. G. Boswell in Los Angeles. Have you that occasion in mind? A. Yes.

Q. You called on Colonel Boswell at his office in Los Angeles at that time, didn't you?

A. Yes.

Q. And will you please tell us in effect what you said to the Colonel?

A. Well, after the formal introductions I told

(Testimony of E. F. Prior.)

Colonel Boswell that I thought there had been a misunderstanding of the conditions and circumstances out at the plant and that it was my opinion that it would be a good idea to discuss them, that he understand our position and we understand the company's position and see if the matter couldn't be ironed out. In substance, that is what I said to him.

I recall that Mr. Boswell made the statement—

Q. (Interrupting): Just a minute before you get to Mr. Boswell's statement. Have you completed what you said to him?

A. I do recall that the charge was mentioned.

Q. What charge?

A. The charge that had been filed with the Twentieth Region.

Q. Are you speaking of the charge of July 17th?

[506]

A. No, the one dated on or about November 21 of 1938.

I mentioned the charge, had a copy of the charge with me, and Colonel Boswell read the charge and it was discussed. Colonel Boswell stated—

Q. (Interrupting): Before you get to what he said, is that all that you said?

Mr. Mouritsen: I object to it upon the ground that it is vague and indefinite and that there is no limitation upon the question itself as to whether it was said at this point of the conversation or during the entire conversation.

(Testimony of E. F. Prior.)

Mr. Clark: Well, there has been a conversation that was gone into on direct examination, and I am simply trying to elicit *what* this witness said.

Trial Examiner Lindsay: Let him answer the question, please.

Proceed with the examination.

Q. By Mr. Clark: Anything else that you said?

Trial Examiner Lindsay: Anything you said at that time——

Mr. Clark (Interrupting): So far as the substance of the conversation goes.

The Witness: Not that I recall at this moment.

Mr. Clark: All right.

Q. And did Colonel Boswell then during that conversation say to you that the position of the Boswell Company was correctly [507] set forth in the sign which had been suggested by Mr. Larson of the National Labor Relations Board and posted on the property——

Trial Examiner Lindsay (Interrupting): May I have that question read?

Mr. Clark: I haven't finished.

Trial Examiner Lindsay: I am sorry.

Mr. Clark: I will withdraw it.

Q. Did Colonel Boswell say to you on that occasion, Mr. Prior, that the position of the Boswell Company was correctly set forth in the sign which had been suggested by Mr. Larson of the National Labor Relations Board and concerning which you testified on your cross examination yesterday?

(Testimony of E. F. Prior.)

Trial Examiner Lindsay: Now just a minute. Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Signed?

Mr. Clark: Sign. It is in evidence, Mr. Examiner.

Trial Examiner Lindsay: You mean the——

Mr. Clark (Interrupting): S-i-g-n.

Trial Examiner Lindsay: The notice?

Mr. Clark: The notice. Change it to notice in the question. May I have it read back? [508]

Trial Examiner Lindsay: Put in the word “notice.”

Mr. Clark: Instead of “sign.”

The Witness: Colonel Boswell could have made that statement. I am not positive whether he did or not.

Q. By Mr. Clark: Did not you testify just a few minutes ago that he did make that statement during your conversation with him in Los Angeles on November 25th?

Trial Examiner Lindsay: He has not made that statement.

The Witness: I don't believe that I did.

Q. By Mr. Clark: What is your best recollection on it now as to whether or not he made a statement substantially as I have indicated in my question?

(Testimony of E. F. Prior.)

Mr. Mouritsen: I object to the question upon the ground it is vague and indefinite.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Well, he has answered the question. He said he didn't know whether he made the statement or not.

Mr. Clark: I am asking his best recollection on it, whether he did or not.

The Witness: Mr. Boswell could have made the statement. I don't recall it.

Q. By Mr. Clark: Well, have you any—then, as I understand you, Mr. Witness, you have no recollection at all to the effect that Mr.—that Colonel Boswell did make any such state- [509] ment? Is that your testimony?

A. In reference to that notice, I do not have any recollection of it.

Q. Well, did he make any statement to you which included the subject matter of the notice which has been marked Boswell's Exhibit 2 for identification in this case, and which you have examined?

A. We discussed that notice, yes.

Q. All right.

Now, tell me what discussion you had, as far as the notice is concerned?

A. The only thing that I recall was that Colonel Boswell stated that his report was that the notice had been posted in the plant. Now, that is all that I recall as to his statement directed towards the notice.

(Testimony of E. F. Prior.)

Q. All right.

Now, can you tell us whether or not he also said to you that the notice accurately set forth the Company's position in this matter?

Mr. Mouritsen: I object to that as already asked and answered.

Trial Examiner Lindsay: It has been answered, but he may answer it again. I really don't get the purpose of the repetition of the questions.

Answer the question, please? [510]

The Witness: Colonel Boswell could have made that statement, but I don't recall it if he did.

Mr. Clark: Very well.

Is your Honor going to take a recess at this time?

Trial Examiner Lindsay: We will adjourn until 2:00 o'clock.

(Thereupon, at 12:00 o'clock M., a recess was taken until 2:00 o'clock P. M. of the same date.)

[511]

After Recess

(Whereupon, at 2:00 o'clock p. m., the hearing was resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: May I proceed now?

Trial Examiner Lindsay: Yes.

E. F. PRIOR

the witness on the stand at the time of recess, having been previously duly sworn, resumed the stand and further testified as follows:

Cross-Examination
(Continued)

By Mr. Clark:

Q. Mr. Prior, why was it that you made photostats of the checks received by the members of your union after November 18th, from the Boswell Company?

Mr. Mouritsen: Objected to as immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: We have made that a practice in a number of cases where wages have been paid employees who are off due to union activities; use them for references and in support of our records.

Q. By Mr. Clark: Well, is it the purpose also to use them for exhibits in any case that might follow before the Board?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained. [512]

Q. By Mr. Clark: Have you given us the sole purpose of your having photostated these particular checks?

A. Yes, sir; for a matter of our records.

Mr. Clark: I see. No further questions.

Redirect Examination

By Mr. Mouritsen:

Q. In cross examination, Mr. Prior, I believe

(Testimony of E. F. Prior.)

you were asked whether or not the California State Council of Soap and Edible Oil Workers had obtained a charter from the American Federation of Labor.

Do you recall that? A. Yes, I do.

Q. And I believe you stated that it had not obtained, not at this time obtained a charter from the American Federation of Labor. Is that correct?

A. Yes, sir.

Q. Will you state whether or not the California State Council of Soap and Edible Oil Workers has made application to the American Federation of Labor for a charter? A. We have not.

Q. Also on your cross examination I believe you were asked regarding the posting of a notice by the company at the Corcoran plant. Do you recall that?

A. Yes.

Q. And I believe your testimony was that you were informed regarding the posting of this notice by Mr. Louis T. Robinson, [513] is that correct?

A. Yes.

Q. Do you recall the approximate date of the conversation with Louis T. Robinson in which he informed you regarding the posting of the notice?

A. As near as I can place the date, on or about November 28, 1938.

Q. During any of your visits to the plant during the year 1938 or 1939 did you ever see a copy of a notice such as Mr. Robinson discussed posted in the plant?

(Testimony of E. F. Prior.)

Mr. Clark: Objected to upon the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: No, I never have.

Mr. Mouritsen: No further questions.

Mr. Clark: No further questions.

(Witness excused.)

Mr. Mouritsen: Call Mr. Martin.

R. K. MARTIN,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Mouritsen:

Q. What is your name? [514]

A. R. K. Martin.

Q. Where do you live?

A. 1040 Hanna Avenue, Corcoran.

Q. In Corcoran, California? A. Yes.

Q. Have you ever been employed by the J. G. Boswell Company? A. Yes.

Q. When were you first so employed?

A. 16th of September, 1930.

Mr. Clark: Mr. Examiner, may I state for the respondents, Mr. Painter will handle this witness and any objections which we might have to make to the direct examination.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: What is that date? I didn't get it. September what?

The Witness: 16th.

Trial Examiner Lindsay: 1930?

The Witness: Yes.

Q. By Mr. Mouritsen: What type of work did you start in to do at that time?

A. Tying cotton at the gin, press room. [515]

Q. Pressman on one of the gins at the Company?

A. Yes.

Q. What rate of pay did you receive at that time? A. Thirty cents, I think.

Q. 30 cents an hour? A. Yes, sir.

Q. What hours did you work?

A. Twelve hours.

Q. How many days a week? A. Seven.

Q. How long did you continue to work for the Company after you started the first time?

A. Until April 1.

Q. Of what year? A. 1931.

Q. 1931? A. Yes, sir.

Q. What occurred at that time with reference to your employment with the Company?

A. I quit and went back to Georgia.

Q. After that time did you ever resume your employment with the Company? A. In 1934.

Q. Do you recall the month?

A. August 4th. [516]

Q. What type of work did you do at that time for the Company?

(Testimony of R. K. Martin.)

A. I started to work stacking grain in the warehouse.

Q. What was your rate of pay per hour?

A. 35 cents.

Q. What hours per day did you work?

A. Eleven hours, I think, while I was on the grain job.

Q. And how long did you work on stacking grain, I believe you stated?

A. About two weeks.

Q. Then what did you do?

A. First one odd job, and then another.

Q. How long did you do odd jobs?

A. Until the ginning season started in September, I believe it was.

Q. Of what year? 1934? A. Yes, sir.

Q. How long did you do that type of work?

Trial Examiner Lindsay: Just a moment. I think your question is a little misleading.

May I have the preceding question read?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Yes. What type of work?

Mr. Mouritsen: I withdraw the question.

Q. What work did you do when the—— [517]

Trial Examiner Lindsay (Interrupting): September, 1934, when you went back?

Q. By Mr. Mouritsen: What type of work did you do in September of 1934?

(Testimony of R. K. Martin.)

A. Worked in the gin as pressman, tying up cotton at the press.

Q. And what hours per day did you work while you were doing that type of work?

A. Eight hours.

Q. What rate of pay did you receive while you worked as pressman? A. 35 cents.

Q. How long did you continue to do that type of work?

A. Oh, until the end of the ginning season; I think it was in January or maybe February.

Q. Of what year? A. '35.

Q. Yes.

And then did you continue to work for the Company after that January of '35? A. Yes, sir.

Q. What type of work did you do then?

A. Oh, just outside work. Yard work, and was laid off a day or two now and then and put back.

Q. And how long did that type of work continue? [518]

A. Until about the middle of June, I believe.

Q. And what type of work did you do in the middle of June, 1935?

A. I went to work as a helper in the expeller room.

Q. How long did you continue to do that type of work?

A. Well, I have forgotten just how long, but I worked in the expeller room ever since.

Trial Examiner Lindsay: What room?

(Testimony of R. K. Martin.)

The Witness: Expeller room.

Trial Examiner Lindsay: May I interpose one question? I would like to know what the expeller room is?

The Witness: It is where they extract oil from the seed, continuous presses.

Q. By Mr. Mouritsen: And that is the type of work that you have done up until the termination of your employment with the Boswell Company; is that correct? A. Except I ginned a few days.

Q. Yes.

And did you, during the course of your employment, ever receive more than 35 cents an hour?

A. Yes, sir.

Q. What rates of pay have you received other than 35 cents an hour and 30 cents an hour?

A. 40 and 50.

Q. And when were you last employed by the J. G. Boswell Company? [519]

A. In November, 1938. November 18th, 1938.

Q. And at that time, and immediately prior to that time, what rate of pay were you receiving?

A. I received 40 until November—October 10th.

Q. Of what year? A. 1938.

Q. And then what occurred?

A. I went to ginning and got a raise of 10 cents an hour.

Q. And for a little over a month in the year 1938, you received 50 cents per hour; is that correct?

A. Yes, sir.

(Testimony of R. K. Martin.)

Q. Was there a period during September of 1937 when you worked for someone else other than the J. G. Boswell Company? A. Yes, sir.

Q. What—for how long a period did you work for someone else other than the Boswell Company beginning in September of 1937?

A. Until March—I believe it was March, and I worked two weeks for the Company, ten days or two weeks, something like that.

Q. [That is March of what year?

A. '37, I believe—'38.

Trial Examiner Lindsay: I don't quite understand his answer on those two weeks.

Mr. Mouritsen: Well, I will straighten that out in a [520] minute.

Q. In other words, Mr. Martin, from September of 1937 until March of 1938, you worked for someone else other than the Boswell Company; is that correct? A. Yes. [521]

Q. Now, what did you mean with reference to your statement about a two-week period in there?

A. Well, I went back to work for the company and worked two weeks, and there was a lay-off and I went to Colorado then for thirty days and didn't come back until May.

Q. Of what year? A. 1938.

Q. In other words, after March of 1938 you worked for a period of two weeks for the company and then your employment ceased again, is that correct? A. Yes.

(Testimony of R. K. Martin.)

Q. Mr. Martin, are you a member of a labor organization? A. Yes, sir.

Q. Of what organization?

A. Cotton Products and Grain Mill Workers Union No. 21798.

Q. When did you become a member of that local?

A. September 2nd, 1938.

Q. During the course of your employment with the J. G. Boswell Company did you ever have any conversation with Tom Hammond regarding the union? A. Yes, sir.

Q. Do you recall the approximate date of such a conversation? A. Not the exact date, no.

Q. Could you give us the approximate date? [522]

A. Well, about the 24th or 25th of September.

Q. Of what year? A. 1938.

Q. Where did the conversation take place?

A. In the expeller room.

Q. Other than yourself and Mr. Tom Hammond was anyone else present? A. No, sir.

Q. Will you state the conversation that took place at that time between yourself and Mr. Tom Hammond?

Mr. Painter: That is objected to on the ground it is hearsay, not binding on any of the respondents, and is not authorized; and no proper foundation has been laid.

Trial Examiner Lindsay: Is this the same Tom Hammond who is classified in the testimony as being a foreman?

(Testimony of R. K. Martin.)

The Witness: Yes, sir.

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: Mr. Farr told me that he was accusing me of——

Mr. Painter (Interrupting): Just a moment. Let us have this answer responsive to the question.

Q. By Mr. Mouritsen: In other words, Mr. Martin, the reference is to a conversation between you and Tom Hammond, so will you state what you said to Mr. Tom Hammond and what [523] Mr. Tom Hammond said to you on this occasion?

A. I asked him—he told me——

Mr. Painter (Interrupting): The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: I asked him if he told anybody that anybody had told him that I was going to organize that plant.

He said, "Yes."

I asked him who it was. He said, "A guy in the office."

I asked him what his name was and he said, "Well, just a guy in the office."

Then he finally admitted that he heard that uptown.

Q. By Mr. Mouritsen: Is that what he stated, that he had heard it uptown? A. Yes.

Q. Now continue.

A. I told him that I hadn't figured on organizing, but I believed it could be done.

(Testimony of R. K. Martin.)

He said, "Well," he said, "if the union comes in here," he said, "clean it up and lock it up and shut the door."

He said, "Mr. Gordon Hammond has a letter from Mr. J. G. Boswell stating if they did, the union did come, to lock up."

Mr. Painter: Now, may it please the Examiner, I want to move to strike that entire conversation upon the same grounds as I made to my objection. [524]

Trial Examiner Lindsay: The motion denied.

Q. By Mr. Mouritsen: During that conversation was anything said respecting Shorty Gilmore?

Mr. Painter: Same objection, your Honor.

Trial Examiner Lindsay: He may answer.

The Witness: He said that he didn't blame anybody for not having anything to do with anything that Shorty Gilmore had anything to do with. I told him that Shorty Gilmore was not having anything to do with it; he never as much mentioned unions to me.

Q. By Mr. Mouritsen: And who is Shorty Gilmore? A. He is one of the ex-employees.

Q. Do you know whether his name is James A. Gilmore? A. I think so.

Q. I believe you stated that you last worked for the company on November 18, 1938, is that correct?

A. Yes.

Q. Did you work during the morning of that day?

A. Yes.

(Testimony of R. K. Martin.)

Q. During the morning of that day did you have a conversation with Bill Robinson? A. Yes.

Q. Who is Bill Robinson?

A. Well, he is known as the troubleshooter and gin foreman, I suppose. [525]

Q. Was anyone else present when you had your conversation with Bill Robinson?

A. No, sir.

Q. Where did the conversation take place?

A. At the gin door, No. 3 gin.

Q. At that time what did you say to Mr. Robinson and what did Mr. Robinson say to you?

Mr. Painter: Your Honor, I want to object to that question on behalf of all respondents, it being hearsay, no authorization shown for Mr. Robinson to speak for the company, and it is not binding upon any of the respondents.

Trial Examiner Lindsay: He may answer.

The Witness: My gin began to die, so I pulled the clutch out and started out to see what the trouble was with the engine, and met him coming in the door.

He says, "Martin, we are going to have a little meeting out here to see whether we are going to have this union or not. We wanted everybody to go out there and talk things over."

He said, "Now, Martin," he said, "whatever you do, don't go out there and raise no racket." [526]

I says, "O. K.," but I says, "I won't go out there and have some of those guys tell me to my face what I have heard to my back."

(Testimony of R. K. Martin.)

He said, "What is that?"

I said, "Talk has been going around that the Union was all right, not these God damned low down leaders."

I says, "I won't stand for that to my face."

He said, "I don't blame you." He said, "You got a right to your belief just the same as they have to theirs," and he said, "If you believe in the A. F. of L. Union that is O. K. I don't blame you for that."

I started on. He said, "Martin, whatever you do, don't raise no racket."

I said, "O. K."

Q. By Mr. Mouritsen: Was that all of the conversation?

Mr. Painter: Same objection.

The Witness: At that time.

Trial Examiner Lindsay: The same ruling.

Mr. Painter: Now, your Honor, I move to strike the conversation upon the same grounds.

Trial Examiner Lindsay: Motion denied.

Q. By Mr. Mouritsen: Did you then continue out of the gin door? A. Yes, sir.

Q. Will you state what you saw and observed after you went [527] out of the gin door?

A. Well, there was a bunch of men gathered up around the other gin, kind of between my gin and the other gin, about sixty men bunched up in a bunch. I walked up there to take part in a meeting, and they began, wanted somebody to start the conversation. Finally, Mr. Ely, he started the conversation.

Q. Do you know what Ely's name is?

(Testimony of R. K. Martin.)

A. Foy, I believe is his name.

Q. Is he also known as Jack Ely? A. Yes.

Q. Will you state what he said, what you heard him say?

Mr. Painter: Your Honor, I object to this as hearsay, not binding upon the Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: He walked up to Mr. Farr, and said, "Farr, we want to know about this Union."

He said, "Well, I don't know what you want to know about it."

He said, "We want to know what there is to it."

Farr said, "We don't discuss our business outside of the meeting."

And he said—somebody said, "Where is the president? Who is the president?"

He said, "I am not the president. Mr. Spear is president." [528]

Somebody said, "Bring him in."

Mr. Spear, he was sitting over on the side of the crowd and he got up and walked over. He said, "Boys, what is it you want to know?"

A fellow by the name of Bill Nichols said, "We want to know about this God damned Union of yours."

Q. By Mr. Mouritsen: Now, who is Mr. Nichols?

A. He is a carpenter, one of the carpenters.

Q. Is he an employee of Boswell Company?

A. Yes, sir.

Q. Was he at that time? A. Yes.

(Testimony of R. K. Martin.)

Q. Now, continue.

Mr. Painter: I move to strike the entire conversation, your Honor, upon the same grounds as I urged upon the objection.

Trial Examiner Lindsay: I understand this is the same meeting that was held outside the plant on Company property on the morning of the 18th?

Mr. Mouritsen: Well, I will ask the witness, Mr. Examiner, if I may.

Q. Where did this meeting of the employees or—strike that.

Where did this meeting occur that you are now describing?

A. Outside of my gin, next to the Number 2—1 and 2 gin.

Q. Is it in the Company's plant?

A. Yes. [529]

Q. And was it during working hours?

A. Yes.

Q. Approximately what time of the day?

A. Around 10:00 o'clock.

Trial Examiner Lindsay: You had a motion to strike——

Mr. Painter (Interrupting): Yes, I did.

Trial Examiner Lindsay (Continuing): ——or an objection?

Mr. Painter: I had a motion to strike.

Trial Examiner Lindsay: Motion denied.

Q. (By Mr. Mouritsen): Now, I believe, Mr.

(Testimony of R. K. Martin.)

Martin, you had just told us what Mr. Nichols stated.

Will you continue your description of the meeting from that point?

A. So he tried—Lonnie tried to talk—everybody was trying to talk——

Mr. Painter (Interrupting): Just a minute. The question didn't call for a conversation. I want to urge my objection to any conversation in this meeting as being hearsay, and not binding upon the Respondents and no authorization shown on behalf of anyone to speak for these Respondents.

Trial Examiner Lindsay: The objection is overruled. You may have an exception.

Proceed.

Q. (By Mr. Mouritsen): Give us, as nearly as you can remember, Mr. Martin, what Mr. Spear said and what anyone else [530] said at that time and after that time.

Mr. Painter: The same objection, your Honor, to this question as previously stated.

Trial Examiner Lindsay: He may answer.

The Witness: Mr. Spear tried to explain to them he wasn't——

Mr. Mouritsen (Interrupting): No. Just give us what Mr. Spear said as nearly as you can.

The Witness: He said that we were trying to help everybody, wasn't working against anybody, was trying to keep everybody at work possible.

So they said, "Throw them out. Either throw

(Testimony of R. K. Martin.)

your buttons down and go with us, or we are going to throw you out.”

Q. (By Mr. Mouritsen): Did you recognize any of the individuals in the crowd who made that statement?

A. No, I couldn't say for certain who said that.

Mr. Painter: Mr. Examiner, I want to move to strike that conversation upon the same grounds as I urged.

Trial Examiner Lindsay: Motion denied.

Q. By Mr. Mouritsen: During that time, or at that time, did you hear Mr. Brown make any statement?

A. After he said “Throw them out——”

Q. (Interrupting): Answer that yes or no.

A. Yes.

Mr. Painter: Is Mr. Brown identified?

Mr. Mouritsen: I am going to do that. [531]

Q. Who was Mr. Brown?

A. He is an engineer, one of the natural gas engineers down there.

Q. And is he an employee of the Company?

A. Yes.

Q. Was he at that time?

A. Yes, sir. [532]

Q. Will you state what you heard Mr. Brown, the engineer, say?

Mr. Painter: I object to that on the ground it is hearsay, and not binding upon these defendants, no authorization shown.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: He may answer.

The Witness: He said, "Throw them out. The company is behind us."

Mr. Painter: I move to strike that on the same grounds.

Trial Examiner Lindsay: The motion is denied.

I am wondering whether it is necessary to make an objection to a question and then at the end of the conclusion of the testimony ask to have it stricken. If you deem it as necessary, then you may do it.

Mr. Painter: Maybe we can enter into some sort of a stipulation.

Trial Examiner Lindsay: No, I am not going to enter into any stipulation. The point is do you preserve your record by making your objection and having granted an exception without the necessity of moving to have it stricken. I believe your record is protected and preserved. However, if you feel it is not, then you may proceed that way.

Q. By Mr. Mouritsen: Now, Mr. Martin will you state what you next saw and observed after Mr. Spear made his statement and you heard these other statements from the crowd? [533]

A. Well, three guys grabbed Mr. Spear and started out with him.

Q. Do you know who those individuals were?

A. Yes, sir.

Q. Will you name them, please?

A. A fellow by the name of Tisdale and Salisbury and John Duncan.

Q. Were they all employees of the J. G. Boswell Company at that time? A. Yes.

(Testimony of R. K. Martin.)

Q. Now, will you continue your description of what occurred at that time?

A. They shoved him out. Mr. Brown, he drew back to—like he was going to hit him.

Q. Is that the way it appeared to you?

A. Yes.

Q. Now continue.

A. So they marched him on out, out the gate.

Q. And was this Mr. Brown the same Mr. Brown whom you identified as an engineer?

A. Yes, sir.

Q. Do you know his first name or initials?

A. No, sir, I don't.

Q. Where did they take Mr. Spear when you last saw them?

A. Over to Mr. Gordon Hammond's office. [534]

Q. Did you yourself proceed to Gordon Hammond's office? A. Yes, sir.

Q. How did you proceed to his office?

A. Just walked on through the warehouse over to the office.

Q. When you arrived in Gordon Hammond's office, did you see a number of other employees there? A. Yes, sir.

Q. Was Mr. Spear and the other three individuals you named, were they present at the office?

A. I think some—part of them was, at least.

Q. Was there also a number of other individuals present in the office? A. Yes, sir.

Q. Will you name as many of those individuals

(Testimony of R. K. Martin.)

as you can recall whom you saw present in the office?

A. Mr. Rube Lloyd, Mr. Nichols, Mr. Bill Robinson. I think that is all I can remember.

Q. Were there more than those? Were there more than five or six men present in Mr. Hammond's office?

A. Not in his office, no, sir.

Q. There were about six or seven men present in his office, is that correct? A. Yes, sir.

Q. Were there other men present in the hall outside of his office? [535] A. Yes, sir.

Q. Approximately how many men?

A. Oh, say 10 or 12.

Q. And where were you? Were you inside Mr. Gordon Hammond's office? A. Yes, sir.

Q. What did you observe and hear while you were present in Mr. Gordon Hammond's office at that time?

Mr. Painter: I will object to that question as calling—it is broad in scope—calling for a conversation by any party, and is hearsay to these defendants, and not binding upon these respondents.

Trial Examiner Lindsay: I understand Mr. Robinson was in the office, is that right?

The Witness: He was in his own office.

Trial Examiner Lindsay: In his own office?

Mr. Painter: This is in Mr. Hammond's office.

Trial Examiner Lindsay: Was Hammond in the office?

The Witness: No, sir.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: Well, who was in the office?

The Witness: There wasn't anyone in Mr. Hammond's office except the bunch of guys that led Mr. Spear in there and the ones that went with us.

Trial Examiner Lindsay: Who did you see in there?

The Witness: We just waited there for a long time, never [536] did nobody show up with authority, and finally Mr. Robinson put his head out of the door and told us to go back to work, he would be around to straighten it out.

Trial Examiner Lindsay: The testimony may stand.

Q. (By Mr. Mouritsen): And who is Louis T. Robinson?

A. He is general manager of the plant, I suppose. I don't know what he is.

Q. After Mr. Louis T. Robinson made that statement, what next occurred?

A. We went back and started to work.

Q. Where did you go?

A. Went back to my job.

Q. And did you go to work then?

A. No, sir.

Q. What did you do?

A. Well, I offered to go to work, and I said that Bill Robinson—I asked them——

Mr. Painter (Interrupting): I move to strike that, that being hearsay, and not binding on the respondents, and not responsive to the question.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: He may answer.

The Witness: Bill Robinson said Tom said not to start.

Mr. Painter: Just to clear up the record, I move to strike the entire statement on the same ground.

Trial Examiner Lindsay: The motion is denied.

[537]

Q. (By Mr. Mouritsen): Now, Mr. Hammond—or Mr. Martin, is it a correct statement of your testimony regarding this incident that Mr. Bill Robinson—

Mr. Painter (Interrupting): Just a moment. He is leading his own witness.

Mr. Mouritsen: Mr. Examiner, there has been so many interruptions from counsel that I am sure the record is in a very unclear shape. I think that it is necessary to straighten it out so that the record may be clear and definite on this point.

Trial Examiner Lindsay: I would like it straightened out.

Proceed.

Q. (By Mr. Mouritsen): Mr. Martin, will you state what Mr. Bill Robinson said at that time?

Mr. Painter: Your Honor, I want to object to that again on the ground it is hearsay, no authorization shown, and not binding on these respondents.

Trial Examiner Lindsay: The objection is overruled. Read the question.

(The question referred to was read by the reporter, as set forth above.)

(Testimony of R. K. Martin.)

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: You already have an objection to that question, and I said you may proceed. [538]

Mr. Painter: I take it it is overruled, then?

Mr. Mouritsen: Mr. Examiner, I am surely going to object that counsel for the respondent are surely out of order and that in any other hearing in any other court that these men would have been put out of the hearing or would have been fined for contempt for such action; and I submit it is a highly contemptuous attitude on behalf of respondent's counsel.

Mr. Painter: I think we have a perfect right to enter our objections if we deem they are well taken. That is all we intend to do and that is what we are going to do.

Trial Examiner Lindsay: No one has denied you the right but I feel when an objection has been made to a question and I overrule the objection and I ask that the question be read again to the witness, another objection is not necessary. We must proceed in an orderly way and proceed if I allow the answer to be given.

Certainly, I want everyone to have a chance to have the record preserved, but on the other hand we must proceed in an orderly way and get this testimony into the record.

Now, may I have the last question?

(The question referred to was read by the reporter, as set forth above.)

(Testimony of R. K. Martin.)

The Witness: He said Tommy Hammond said not to start the engines yet.

He said, "What are you going to do? It seems like either [539] the union men run this or the non-union." He said, "They are not going to work with you." He said, "What are you going to do?"

I said, "If Mr. Hammond and Mr. Louie Robinson comes down here and says 'Go home,' all right, but until they do we won't."

Mr. Painter: I move to strike out the conversation, your Honor, on the same grounds.

Trial Examiner Lindsay: The motion is denied. [540]

Q. By Mr. Mouritsen: Did you at that time leave the plant and your gin, Mr. Martin?

A. No, sir.

Q. Did you remain at your gin?

A. Yes, sir, we stood around there for fifteen or twenty minutes, I guess. He asked again, then, what we were going to do.

Q. Who was that? A. Bill Robinson.

Mr. Painter: Just a moment. I move to strike out that conversation.

Trial Examiner Lindsay: He hasn't given the conversation yet. Do you wish an objection shown on the record?

Mr. Painter: Yes, your Honor.

Trial Examiner Lindsay: All right. The objection is overruled, and he may answer.

The Witness: He asked what we were going to

(Testimony of R. K. Martin.)

do and George Andrade was standing there, and he said, "Where is Lonnie? What are we going to do, go home?"

And I said, "I don't know."

We went to the gin where Lonnie was, and a bunch was ganged around him and he was talking to him, and he came in—Bill came in and said, "What are you going to do, Lonnie? It seems as though the boys aren't going to work with you."

Lonnie said, "If that is the way the boys feel about it, [541] we will go home then."

Bill said, "It looks like the thing to do is to get this straightened out."

Q. By Mr. Mouritsen: Who is Bill?

A. Bill Robinson.

Mr. Painter: I move to strike the conversation on the same ground that I urged the objection.

Trial Examiner Lindsay: Motion denied. Proceed.

Q. By Mr. Mouritsen: Who is Lonnie that you referred to? A. L. A. Spear.

Q. After that—strike that.

I believe you stated you have worked in the gins on a number of occasions for the Company in the past; is that right? A. Yes, sir.

Q. Now, just what connection did Bill Robinson have with your work on the gins for the Company?

A. He gave me orders how to gin the cotton, how fast to gin, how tight to have the roll, whether or not to leave remnants in the press box at night.

(Testimony of R. K. Martin.)

Q. Had he ever given you any instructions as to when you were to come to work, or when you were not to come to work?

A. On one occasion he told me to come back one Sunday.

Trial Examiner Lindsay: May I ask a question there?

Did you go back that Sunday? [542]

The Witness: Yes.

Trial Examiner Lindsay: Did you work?

The Witness: Yes.

Trial Examiner Lindsay: Were you paid for it?

The Witness: Yes, sir.

Q. By Mr. Mouritsen: After that conversation you had with Robinson and these other men that you have described, what then did you do?

A. I don't get your question.

Q. Well, as I recall it, you described the conversation that you had where Mr. Spear and Mr. Andrade and Mr. Bill Robinson were present, and there was talk of your continuing to work or not continuing to work; is that correct? A. Yes.

Q. Now, what did you do after that conversation was had? A. We went home.

Q. Do you hold any office in the Union?

A. Yes, sir.

Q. What office?

A. Secretary and Treasurer.

Q. How long have you held that office?

A. Since November 16th, I believe it was.

(Testimony of R. K. Martin.)

Q. Of what year? A. Of 1938.

Q. Did you attend a number of Union meetings in the months of— [543] in the year 1938?

A. Yes, sir.

Q. And have you attended a number of union meetings since that time? A. Yes, sir.

Q. Have you ever been engaged in any picketing of the plant at Corcoran here? A. Yes, sir.

Q. Have you done that on a number of occasions?

A. Yes, sir.

Q. Have you had any employment since November 18th, 1938?

A. Three days, I think—two or three days.

Q. And approximately how much money did you earn during that period?

A. \$19.70, I believe.

Q. And is that all of the money that you have earned by working since November 18th, 1938?

A. Yes, sir.

Q. If the National Labor Relations Board should order your re-instatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. Yes, sir.

Mr. Mouritsen: Mr. Examiner, as I outlined at the beginning of the Board's case, we propose to present the evidence collected first against the J. G. Boswell Company, then that [544] that has been gathered regarding the Associated Farmers.

This witness has some evidence, or testimony, that is, that refers to the Associated Farmers. However,

(Testimony of R. K. Martin.)

I think that it would be—We would have a more orderly record if I could be permitted to withdraw this witness and then present him at the time when we present the Board's case against the Associated Farmers, and I wouldn't want to preclude myself from doing that by releasing him at this time without such an understanding.

Mr. Clark: We prefer that it be done that way, Mr. Examiner.

Trial Examiner Lindsay: He may be recalled at a later date. However, if counsel for the Respondent wishes to cross examine him now on the present testimony, he may do so.

Mr. Mouritsen: Yes, that would be preferable, Mr. Examiner, and you may now inquire.

Mr. Clark: The understanding simply is that this witness may be recalled as a witness of the Associated Farmers' case at a later date?

Mr. Mouritsen: That is correct.

Mr. Clark: So stipulated. [545]

Cross Examination

Q. By Mr. Painter: Mr. Martin, I believe I understood your testimony that you quit your job with Boswell Company in 1937 some time around September to take another job with another company. Is that correct? A. Yes, sir.

Q. You took that job, did you not?

A. Yes, sir.

Q. And then some time later after you were

(Testimony of R. K. Martin.)

through working with that job you came back to the Boswell Company, is that correct?

A. I came back and worked two weeks, yes, sir.

Q. And then you quit at the end of two weeks and went back to Colorado, did you not?

A. No, sir.

Q. You went back to Colorado anyway at the end of two weeks? A. Yes, sir.

Q. How long did you stay back there?

A. Oh, about 25 days.

Q. And that was during the summer of 1938, along about April and May, wasn't it?

A. Yes, sir.

Q. And then you asked, did you not, for a job again at the Boswell Company?

A. No, sir. [546]

Q. Don't you recall writing letters from Colorado asking for a job at the Boswell Company?

A. No, sir; no, sir.

Q. Didn't you have friends of yours inquire if you could get a job? A. No, sir.

Q. At any rate, you came back here about the middle of May, didn't you?

A. Yes, sir; about the 17th.

Q. And the mill had been in operation for some time when you got back? A. No, sir.

Q. It had started before you got back, had it not?

A. It wasn't running when I got here, and hadn't for some time before.

(Testimony of R. K. Martin.)

Q. Don't you recall that the mill was running from May 3rd to—I will withdraw that.

What was the date that you got back?

A. 17th, I think, when I went to work.

Mr. Painter: I withdraw the question.

Q. You worked at that time at odd jobs until September 27th, I believe you said?

A. No, sir.

Q. Well, how long did you work?

Mr. Mouritsen: I object to the question as vague and [547] indefinite. It apparently refers to the preceding question which concerned odd jobs and which the witness stated he did not do at that time.

Q. (By Mr. Painter): Well, what did you do when you came back from Colorado?

A. I helped repair machinery in the oil mill.

Q. You did that work up until you left again, isn't that right?

Mr. Mouritsen: Objected to as vague and indefinite.

Q. (By Mr. Painter): Up until the time you quit work again.

Mr. Mouritsen: Objected to as vague and indefinite.

The Witness: I didn't quit any more.

Q. (By Mr. Painter): You stopped work, then. Did you do that type of work up until the time that your work ceased again?

A. Until the mill started. I operated the expeller.

(Testimony of R. K. Martin.)

Q. When did the mill start?

A. Oh, about 30 days after I got back, 20 or 30 days, something like that.

Q. Then your work stopped at the time the mill closed, didn't it? A. Yes, sir.

Q. And do you recall telling Gordon Hammond at that time that you were expecting a job with a firm over at Kingsburg, an oil mill over there? [548]

A. No, sir.

Q. You don't recall asking Gordon Hammond to notify you when the superintendent of that mill let him know that he wanted you?

A. After I was laid off.

Q. I asked you after the mill closed down.

A. Yes, sir.

Q. And you did that, did you?

A. Yes, sir.

Q. And then along about October 6th you were employed once again at Boswell's, weren't you?

Trial Examiner Lindsay: What year was that?

The Witness: 1938.

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: 1938 he is talking about, is that right?

Mr. Painter: Yes.

The Witness: I think it was October 10th.

Q. (By Mr. Painter): You worked, then, until the 18th of November? A. Yes, sir.

(Testimony of R. K. Martin.)

Q. Now, Mr. Martin, when did you first meet Mr. Prior?

A. September 2nd, I believe. [549]

Mr. Mouritsen: May we have the year, please?

Q. (By Mr. Painter): What year was that?

A. 1938.

Q. You didn't meet Mr. Prior until you joined the union? A. Yes, sir.

Q. Had you talked over this union with any of the other members before September 2nd?

A. No, sir.

Q. Well, at any rate on September 2nd you joined the union? A. Yes, sir.

Q. You were working at that time at the Boswell plant? A. Yes.

Q. Now, after September 2nd did you take any active part in the organization, that is, the solicitation of members for the union? A. I did.

Q. And you talked with numerous employees of the Boswell plant about joining the union, didn't you? A. Yes, sir.

Q. And then you left the job on September 27th and were re-employed again on October 10th after you joined the union, weren't you?

A. Yes, sir.

Q. You mentioned here that you received a raise on October 10th. That was after you had joined the union, wasn't it? [550] A. Yes, sir.

Q. Did you attend these various meetings that the union held during that summer and fall?

(Testimony of R. K. Martin.)

A. I did.

Q. And you took prospective members with you from the Boswell plant on some occasions, didn't you?

A. Yes, sir.

Q. So it was pretty generally known around the plant by the employees that you were a member of the union, wasn't it?

A. I don't think so.

Q. Well, at least you had talked it over with a lot of them, hadn't you?

A. Some of them; yes, sir.

Q. And you talked it over with quite a number of them before October 10th, hadn't you?

A. Yes, sir.

Q. Now, this conversation you had with, I think it was Tom Hammond, about the union, I believe you testified occurred about September 24th, or 25th?

A. Something like that, about four days before the mill shut down, four or five days.

Q. And that, of course—you were a member of the union at that time?

A. Yes, sir.

Q. And you were re-employed after that time, were you not, [551] on—

Mr. Mouritsen (Interrupting): Objected to as asked and answered at least twice before this time on cross-examination.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Painter): And you got your raise in pay after that time?

(Testimony of R. K. Martin.)

Mr. Mouritsen: Objected to as already asked and answered on cross-examination.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Painter): What gin were you on at the time you walked off the job?

Mr. Mouritsen: Objected to as assuming a fact not in evidence and a misquotation of the evidence already given.

Mr. Painter: I will submit that, your Honor. It seems to me he said he walked off the job.

Trial Examiner Lindsay: Well, I didn't understand your testimony just that way, but he may answer.

Mr. Mouritsen: I will further object to it on the ground it is vague and indefinite, with no definite period of time set.

Trial Examiner Lindsay: Do you know what he means?

The Witness: No.

Mr. Painter: May I have the question read?

Trial Examiner Lindsay: Yes. [552]

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Reframe the question.

Q. (By Mr. Painter): What gin were you working on at the time you left the Boswell plant on November 18th? A. No. 4.

Q. No. 4.

(Testimony of R. K. Martin.)

Now, did you attend a conference with Mr. Gordon Hammond on November 17th at which time Mr. Farr and Mr. Spear and Mr. Prior and yourself were in the office of Mr. Hammond?

A. I did.

Q. At that time—withdraw that.

What time of day did that take place?

A. Between 9:00 and 10:00 o'clock, around 9:00 or 10:00 o'clock.

Q. You were working at that time, were you not?

A. Yes, sir.

Q. Did Mr. Hammond come out and get you from work? A. No, sir.

Q. Someone came out and told you that Mr. Prior was in Mr. Hammond's office and wanted you to come in, did he not? A. Yes, sir.

Q. And you came in? A. Yes, sir.

Q. All right. [553]

Do you recall at that time—withdraw that question.

Were you here during the testimony of Mr. Prior?

A. Part of the time, not all of the time. [554]

Q. Were you here this morning during his testimony? A. Yes, sir.

Q. Was his description of what occurred at that meeting with Mr. Hammond on November 17th in accordance with your recollection of it?

Mr. Mouritsen: That is objected to as an objectionable question, calling not for this witness's recollection of any occurrence but for his recollection of the testimony of another witness.

(Testimony of R. K. Martin.)

Mr. Painter: The recollection of the facts stated by another witness.

Trial Examiner Lindsay: Well, ordinarily the question is all right, but I would rather have you go into it the other way, if you wish.

Mr. Painter: I don't want to go into everything that was gone over this morning, but there are a few facts that I will go into.

I would like to have his answer to that question, if the Examiner please.

Trial Examiner Lindsay: He may answer.

The Witness: What was the question?

(The record referred to was read by the reporter, as set forth above.)

The Witness: Yes, it is pretty much the same as I could give it. [555]

Mr. Clark: Does your Honor want to take the afternoon recess? It is 3:00 o'clock. May I ask for it at this time?

Trial Examiner Lindsay: Yes, if you really need it.

We will have a ten minute recess.

(At this point a short recess was taken, after which proceedings were resumed, as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Painter: Shall I proceed?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Painter): Mr. Martin, the night be-

(Testimony of R. K. Martin.)

fore that meeting, that conversation in the office, whichever office it was, with Mr. Hammond, that is on the night of November 16th you held a Union meeting, did you not? A. Yes, sir.

Q. In other words, to discuss—withdraw—that.

In other words, you held a meeting the night before you went into the office to talk with Gordon Hammond? A. Yes, sir.

Q. Now, can you tell me who was present at that meeting?

A. Well, O. L. Farr, W. R. Johnston, E. C. Ely, B. L. Ely, L. E. Ely, George Andrade—I believe that is all I can name.

Q. Those are all the people there that you can remember; is that correct? A. Yes, sir.

Q. You are Secretary of the Union, are you not? [556]

A. Yes, sir.

Q. Do you keep a record of the people in attendance at the meetings? A. I do.

Q. Have you that record with you?

A. No, sir.

Q. Will you arrange to produce that record here at some convenient time, of the members that were there and participated at the meeting?

Mr. Mouritsen: I would object to the introduction of this testimony or such record upon the ground they are incompetent, irrelevant and immaterial.

Mr. Painter: It is certainly competent, I believe,

(Testimony of R. K. Martin.)

if I may state my position, Mr. Examiner.

It is certainly competent to get the identity of all parties present at these various events. That is the purpose of my request.

Trial Examiner Lindsay: Well, I understand that the records of the Union are the Union records. The objection is sustained.

Q. (By Mr. Painter): May I ask you how many people were present at that meeting?

A. Some eighteen or twenty.

Q. Well, I want you to think again. Can you recall anybody other than these people you have named that were present at that [557] meeting?

Mr. Mouritsen: That has already been asked and answered. I object to it on that ground.

Trial Examiner Lindsay: He may answer if he knows anyone else.

The Witness: Walt Winslow, Lonnie Spear, Elmer Eller. That is all I can remember.

Q. (By Mr. Painter): Those are all of them that you can remember? A. Yes, sir.

Q. Now, of those people present at that meeting, were they all members of your Union?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial, not tending to prove or disprove the issues in the case.

Trial Examiner Lindsay: Sustained.

Mr. Painter: All right.

Q. Now, going to the meeting, the conference with Mr. Hammond in the office on November 17th,

(Testimony of R. K. Martin.)

do you recall a discussion in there relative to the reduction in the number of hours worked by each of the men as mentioned by Mr. Prior here in his testimony? A. Yes, sir.

Q. And it was suggested, was it not, by you men who represented the Union, that a reduction be made? Is that correct? [558]

A. Yes, sir, that suggestion was made.

Q. You suggested, did you not, reducing the time—that is, it was suggested by someone of you Union representatives, that the number of working hours should be reduced to eight?

A. No, sir.

Q. Well, it should be reduced, anyhow, to spread out, divide up the work? A. Yes, sir.

Q. Now, you had another Union meeting that night, did you not?

A. I don't remember whether we did or not, the 17th.

Q. You don't recall having a meeting that night?

A. No, sir.

Q. Did you hear Mr. Prior's testimony this morning that you did have a meeting that night?

A. I don't remember.

Q. At any rate, the following day, the 18th—I withdraw that question.

At any rate, instructions were received by you and the other men on the night of the 17th that the gins would run a shorter length of time the following day, weren't there?

(Testimony of R. K. Martin.)

A. No, sir, not me—

Mr. Mouritsen (Interrupting): Objected to as vague and indefinite.

Mr. Painter: All right. [559]

Q. What time did your gin start?

Trial Examiner Lindsay: Just a moment. Your objection came too late. The answer is in.

Mr. Mouritsen: May it please the Examiner, if that is the case, I move to strike the answer for the purpose of interposing the objection which will be that the question is too vague and indefinite.

Trial Examiner Lindsay: Let us be more specific on these matters.

Mr. Painter: May I have the question re-read?

Trial Examiner Lindsay: Yes. Reframe your question. Read it, please?

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Painter): Either on the night of the 17th or the morning of the 18th instructions were received by you that the gins would run short hours on that day; isn't that correct?

A. No, sir.

Q. What time did your gin open on the morning of the 18th? A. Seven o'clock.

Q. The other gin didn't open at that time, did it? A. No, sir.

Q. That gin was to be opened at 10:00 o'clock?

Mr. Mouritsen: Objected to as vague and indefinite.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: He may tell, if he knows, when it [560] was opened, regardless of whether it was to be or was not to be.

When was it opened? He may answer.

The Witness: I understood it was to be, but it never got started.

Q. (By Mr. Painter): All right.

Now, on the 18th, I mean on the 17th of November, both of the gins opened at the same time, didn't they?

A. They was two of the gins that did, yes, sir.

Q. So that there was, in fact, a change in the running time on the 18th of November?

A. Yes, sir.

Q. And that is the day that you and these other men left the Boswell plant?

A. That is the morning we was forced off.

Q. Now, after you went into the office and Mr. Louie Robinson instructed all the men to go back to work, you went back out to the plant, did you not, out to the gin? A. Yes, sir. [561]

Q. And I believe you stated something in your direct examination to the effect that if Mr. Gordon Hammond or Mr. Louie Robinson told you to go home, you would go home? Is that right?

A. Yes, sir.

Q. In other words—well, just state in your own words, what you said.

A. To Bill Robinson?

Q. Yes.

(Testimony of R. K. Martin.)

A. He asked what we were going to do. I told him that we would go home——

Q. (Interrupting): Let us just have what you said.

Trial Examiner Lindsay: That is what he is telling you.

The Witness: That we would go home if Mr. Hammond or Louie Robinson said to go home.

He said, "They won't do that. They are not going to work with you. It is just going to be a racket. You are even going to have to run it yourself, you union men, or you are going to have to let the non-union men run it. You are going to have to get out"——

Mr. Painter (Interrupting): Just a minute, your Honor. All I requested is what this gentleman said himself and consequently I move to strike out all the remaining portion of his answer as not responsive.

Trial Examiner Lindsay: It may be stricken.

[562]

Q. (By Mr. Painter): When you mentioned Mr. Hammond, you referred to Mr. Gordon Hammond, did you not? A. Yes, sir.

Q. All right.

Now, when you went out to the plant after you had been into Mr. Hammond's office on the morning of the 18th, you couldn't get the men to work with you, is that right?

A. I guess that is right.

(Testimony of R. K. Martin.)

Mr. Mouritsen: Objected to as incompetent.

Q. (By Mr. Painter): Let—

Trial Examiner Lindsay (Interrupting): Just a moment. I think in view of the evidence that has been presented here that your question should be re-framed.

Mr. Painter: Let me put it this way.

Q. The men wouldn't work with you then when you went out, back to the gin after being in Mr. Hammond's office that morning?

A. Bill Robinson said they wouldn't.

Q. Well, the men weren't coming around there to work in the gins with you, isn't that a fact?

A. The gins wouldn't start; they wouldn't start the motors.

Q. You were there, weren't you? A. Yes.

Q. But the men wouldn't come to work?

A. They wouldn't start the engines, start the machinery. [563]

Q. The other employees then in the plant wouldn't assist you in running the gin, is that right?

A. The engineer wouldn't start the engine.

Q. All right.

Now, I believe then after a matter of 15 or 20 minutes you and some of the other men took your coats and went home, is that right?

A. We did after we went over and had a conference with the president.

Q. Mr. Spear is the president?

(Testimony of R. K. Martin.)

A. Yes, sir.

Q. You didn't go back in to see Mr. Louis Robinson before you left the plant, did you?

A. No, sir.

Q. You left directly then from the plant without going to see—I will withdraw that question.

You left directly from the gin to your home, is that right? A. Yes, sir.

Q. Now, were you in this conference with Mr. Louie Robinson on the 19th, the day after this happened? A. Yes, sir.

Q. And did you hear Mr. Prior's testimony to the substance of the conversation that took place at that time?

A. If he testified this morning, I did. [564]

Q. Yes, this morning.

A. Well, I heard it.

Q. And was his version of what occurred there in accordance with your recollection of what happened? A. Yes, sir.

Q. Then you heard, did you not, Mr. Martin, you heard Mr. Prior suggest to Mr. Robinson that the men be put back to work stacking and restacking, tearing down and stacking cakes in the warehouse?

Mr. Mouritsen: I object to that, Mr. Examiner, as a misstatement of the evidence given by the preceding witness Prior in that he explained that that was merely an example that he used in outlining his position.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: Yes.

Mr. Painter: I will change the question.

Q. You heard Mr. Prior do some talking, at least, to Mr. Hammond, about putting men to work tearing down stacks of cake and stacking them up again, did you not?

A. I don't recall that.

Q. You don't recall that? A. No, sir.

Q. Now, were you present in the office of Mr. Robinson during a conversation that occurred on November 28th?

A. I think I was.

Mr. Mouritsen: Was that 1938? [565]

Mr. Painter: 1938.

Q. And did you hear Mr. Prior's testimony this morning regarding that? A. Yes, sir.

Q. And you heard his testimony regarding the fact that if all the men weren't going to be put back to work that none of them should be put to work, is that correct?

A. I don't remember just them words.

Trial Examiner Lindsay: Just a moment. His testimony was not that this morning. His testimony was that he said that if they weren't going to be put back to work that there was no use of further discussing the matter. That was his exact words.

Mr. Painter: You heard that, did you not?

The Witness: Yes, sir.

(Testimony of R. K. Martin.)

Q. (By Mr. Painter): When you want to go to work—I will withdraw that question.

After that time did you ever apply for work at the Boswell plant? A. No, sir.

Q. Now, after you left on the 18th, you received checks in payment—you received regular paychecks for a time after that, did you not?

A. I received two checks but they wasn't regular pay according to the way I had been working.

[566]

Mr. Painter: May I have Board's Exhibit 3?

(The document referred to was passed to Mr. Painter.)

Mr. Mouritsen: I think, Mr. Counsel, that Mr. Martin's page or name is not in there. We have examined it.

Mr. Painter: It is in here some place because I saw it the other night.

(Examining document) Here is R. K. Martin.

Q. According to these check stubs which you have in your possession, Mr. Martin, and according to Board's Exhibit 3, you received a check on the 17th, that was the day before you left, did you not, the 17th of November?

A. I received it on Saturday.

Trial Examiner Lindsay: I think you are mistaken there. The check, as I understand it, wasn't delivered on the day that they left, or on the 17th either.

Is that right?

(Testimony of R. K. Martin.)

The Witness: That is right.

Trial Examiner Lindsay: But that it covered the payment up to the 17th.

Mr. Painter: All right. We will revise that.

Q. You received a check at any rate covering your payment for work done up to and including the 17th? You received that check, did you not?

A. Yes, sir. [567]

Q. And another check covering the week up to and including the 24th of November, 1938?

A. Yes, sir, a partial check.

Q. That was for \$29.00? A. Yes, sir.

Q. And a check covering the week up to and ending December 1? A. Yes, sir.

Q. 1938? A. Yes.

Trial Examiner Lindsay: How much was that check for?

Mr. Painter: That check was for \$9.00.

Q. Now, you, in fact, didn't do any work there at the plant after November 18th, did you?

A. No, sir.

Mr. Painter: That is all.

Mr. Mouritsen: Is that all?

Mr. Painter: That is all.

Redirect Examination

Q. (By Mr. Mouritsen): Now, Mr. Martin, I believe you testified on cross that you came back to work for the Company in April or May of 1938, is that correct? A. Yes, sir.

(Testimony of R. K. Martin.)

Q. Were you notified to come back to work at that time? A. Yes, sir. [568]

Q. How were you so notified?

A. A letter from Mr. Gordon Hammond's nephew.

Q. Who is that? A. Kelly Hammond.

Q. And what did the letter say, in substance?

Mr. Painter: I will object to this as not the best evidence.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Mouritsen): Do you have that letter available? A. No, sir, I haven't.

Q. Do you know, has it been kept?

A. I thought it had, but I couldn't find it.

Q. You have made a search for it and have not been able to find it? A. Yes.

Q. Will you state what the substance of the letter was?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: I will ask a question or two.

Where did you make a search for that letter?

The Witness: At home.

Trial Examiner Lindsay: In what part of your home did you make the search for it?

The Witness: Well, most every place there that the letter is liable to be left.

Trial Examiner Lindsay: And any letters you do keep you [569] usually keep in your home here, is that right?

(Testimony of R. K. Martin.)

The Witness: Yes.

Trial Examiner Lindsay: And after having made that search in your home here, you could not find the letter, is that right?

The Witness: Yes, sir.

Mr. Painter: I also object on the ground it is hearsay, no foundation laid, and no authorization shown, and that it is not binding upon any of these Respondents.

Trial Examiner Lindsay: Well, after you got that letter, did you return to work?

The Witness: Yes, sir.

Trial Examiner Lindsay: And you were paid for the work you did after you returned?

The Witness: Yes, sir.

Trial Examiner Lindsay: He may answer. You may have an exception.

The Witness: The letter stated that Mr. Hammond told him to write and tell me that just as well if I come back home, that he intended to give me a night operator's job over the expellers and Nick Thompson's place in the first place; that he looked for me to put me to work about a week after I left going back to Colorado.

Q. (By Mr. Mouritsen): And after that time did you return to Corcoran? [570]

A. Yes, sir.

Q. Did you go to work at the Boswell plant?

A. Yes, sir.

(Testimony of R. K. Martin.)

Q. Did you go to work as the night operator, as outlined in the letter you had received?

A. Not until about thirty days. Nick Thompson was still here. Julius Hammond, the foreman, told me after that—

Mr. Painter (Interrupting): Just a moment. I will object to the conversation as not being binding upon these Respondents, and is hearsay and no proper foundation laid.

Trial Examiner Lindsay: May I have the last part of the answer?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: He may answer. Continue.

The Witness: After he had gone back to Arizona, that I was to take that job.

Q. (By Mr. Mouritsen): Did you approximately, 25 or 30 days after you returned, take the position of night expeller? A. Yes.

Q. Now, Mr. Martin, how many gins are there at the Corcoran plant? A. Six.

Q. Now, directing your attention to the conversation that you had—no, strike that. [571]

Directing your attention to the statement that Mr. Louis T. Robinson made while you were in Gordon Hammond's office on November 18th, 1938, will you repeat that statement?

Mr. Painter: Just a moment. I will object to

(Testimony of R. K. Martin.)

this as having been asked and answered, and was not touched upon on the cross examination.

Mr. Mouritsen: I will reframe it.

Q. Do you have that statement in mind, Mr. Martin? A. Yes, sir.

Trial Examiner Lindsay: Just a moment, now.

As I recall it, he attempted to give the answer, and you did not receive it. The objection is overruled. He may answer.

Mr. Painter: Pardon me, Mr. Examiner. Maybe I misunderstood the question.

May I have the question re-read?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Painter: I will stand on my objection.

Trial Examiner Lindsay: You may answer.

The Witness: Mr. Robinson said, "Go on back and go to work, boys. I will be around in a few minutes and straighten this out."

Q. (By Mr. Mouritsen) I believe you testified you did go back [572] to work? A. Yes, sir.

Trial Examiner Lindsay: He said he went back and attempted to go to work, in his testimony.

Mr. Mouritsen: I accept the correction, Mr. Examiner.

Q. You went back to your gin, is that correct?

A. Yes, sir.

Q. And you waited there approximately 20 minutes, is that correct? A. Yes, sir.

(Testimony of R. K. Martin.)

Q. During that 20 minutes, did Mr. Robinson come out to the gin? A. No, sir.

Q. Did he, during that period, straighten the thing out? A. No, sir.

Q. Where did you go after you left the Boswell plant on that morning?

A. We went home.

Q. Did you go to the home of O. L. Farr before you went home? A. Yes, sir.

Q. Were you present while Mr. Farr made a telephone call? A. Yes, sir.

Q. Do you know to whom that telephone call was made? A. Mr. Louie Robinson. [573]

Q. Were you present when Mr. Farr testified regarding that conversation? A. No, sir.

Q. Did Mr. Farr make any statement to you after he had had the telephone conversation with Mr. Robinson? A. Yes, sir.

Mr. Painter: Just a moment. I will object to that. He hasn't called for the statement.

Trial Examiner Lindsay: He may answer.

The Witness: Yes, sir. [574]

Q. (By Mr. Mouritsen): Will you repeat what Mr. O. L. Farr said to you on that occasion?

Mr. Painter: I object to this question on the ground it calls for hearsay, not binding on the respondents in any manner.

Trial Examiner Lindsay: He may answer.

The Witness: He said that Mr. Robinson said to rest easy, or something to that effect, for a while

(Testimony of R. K. Martin.)

and not to do anything yet, that he was working on it as fast as he could to try to get it straightened out.

Q. (By Mr. Mouritsen): On cross-examination I believe you testified that after November 28, 1938, you did not again apply for employment with the J. G. Boswell Company, is that correct?

A. Yes, sir.

Q. Did you have any reason for that, for not applying for employment after that time?

A. Yes, sir.

Mr. Painter: Just a moment. I will object to the question as incompetent, irrelevant and immaterial; what his reasons were.

Trial Examiner Lindsay: He may state his reason.

Q. (By Mr. Mouritsen): What was your reason?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: He may state his reason. [575]

The Witness: Mr. Robinson told us the morning of the first conversation in his office that after Mr. Prior asked to put us to work he said, "Well, we will feel the men out and get the sentiment of the men and let them know right away."

Mr. Prior mentioned that we was in a hurry about it and we deserved work as much as the other men out there. They said, "Well, go on home. Don't worry about time. We will let you know when we get ready for you. Just rest easy."

Q. (By Mr. Mouritsen): After that—can you fix

(Testimony of R. K. Martin.)

approximately the date of that conversation or conference? A. That was the 19th.

Q. Of what month and what year?

A. November 19, 1938.

Q. Now, after that time did Mr. Louis T. Robinson ever notify you to come back to work?

A. No, sir.

Q. Do you have the stubs of your checks that you received on November 10th and—no, for the week ending November 10, 1938, and for the week ending November 17, 1938? A. Yes, sir.

Q. What do those stubs show that you received for work for the week ending November 10, 1938?

Mr. Clark: Let us check them in the exhibit so we may be sure there is no discrepancy.

Trial Examiner Lindsay: You may see the two he asked for. [576]

The Witness: \$36.

Trial Examiner Lindsay: Do you want to see them?

Mr. Clark: No, I will check the amounts in here (Indicating record book).

Trial Examiner Lindsay: Which one are you reading from now, Mr. Witness?

The Witness: November 10th.

Trial Examiner Lindsay: All right.

Mr. Clark: Just a minute, please, Mr. Examiner.

Trial Examiner Lindsay: All right.

Mr. Clark: All right.

The Witness: \$36.

(Testimony of R. K. Martin.)

Q. (By Mr. Mouritsen): And for the week ending November 17, 1938?

A. (Examining stubs) November 17th, \$32.

Trial Examiner Lindsay: The total is \$32 and the total earned on the other one is \$36, and out of that are some deductions for social security. Is that right?

The Witness: Yes, sir.

Mr. Clark: Are you going into these other two?

Mr. Mouritsen: No. I think that will cover it.

Mr. Clark: I see.

Trial Examiner Lindsay: Will you want to see these stubs?

Mr. Clark: No, no. [577]

Q. (By Mr. Mouritsen): I believe you stated that after November 19, 1939, Mr. Louis T. Robinson never notified you to come back to work, is that correct? A. No, sir.

Q. Did anyone else ever notify you to come back to work? A. No, sir.

Mr. Mouritsen: You may inquire.

Recross Examination

Q. (By Mr. Painter): Mr. Martin, did you discuss this matter at all, this matter of the statement made by Mr. Robinson on the 18th with anyone during the recess? A. No, sir.

Q. Did you talk at all with any of the attorneys for the Board? A. No, sir.

Q. Or with Mr. Prior? A. No, sir.

(Testimony of R. K. Martin.)

Q. What revived your memory as to what was said in that during the recess?

A. I wasn't asked the question before.

Q. Don't you recall testifying to that fact in your direct examination?

A. No, sir.

Q. You have no recollection of stating what Mr. Robinson said on the morning of the 18th? [578]

A. Oh, the morning of the 18th, yes, sir.

Q. Do you recall testifying to that in your direct examination?

A. I sure did.

Q. Well, what changed your mind during the recess to alter that statement after you got back in here?

A. What statement?

Q. As to what Mr. Robinson said.

A. I told the same thing, the same statement.

Q. And you discussed it with no one?

A. Yes, sir.

Mr. Painter: Just so it is clear in the record.

Q. Mr. Martin, from September, 1937 to April of 1938, you were away from the Boswell plant, isn't that correct?

A. From September until when?

Q. September of 1937 until April of 1938.

A. Yes, sir.

Q. And at that time you were on another job?

A. Yes, sir.

Q. And then you were away from March to the middle of May, 1938?

Mr. Mouritsen: I object to that.

Trial Examiner Lindsay: Just a minute. Your questions are not stating the evidence.

(Testimony of R. K. Martin.)

Mr. Painter: I am asking him, Mr. Examiner. [579]

Trial Examiner Lindsay: I know. The way you put your question he can't answer yes or no.

First of all, his testimony was that he came back in March after having been off and worked for some other company and he worked for approximately two weeks and was laid off and *when* down to Colorado and came back and went to work on the 17th of May, 1938.

Mr. Painter: Yes, that is what I wanted to get.

Trial Examiner Lindsay: Read the question and you will see that your question is wrong.

Mr. Painter: I will reframe it and save time.

Q. You were also away from the Boswell plant from about some time in March until about the middle of May, is that right? A. Yes, sir.

Mr. Painter: That is all.

Mr. Mouritsen: Nothing further.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Mouritsen: Call Mr. E. C. Powell.

EVAN C. POWELL

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows: [580]

(Testimony of Evan C. Powell.)

Direct Examination

Q. (By Mr. Mouritsen) What is your name?

A. Powell, Evan C. Powell, E. C.

Q. How do you spell that first name?

A. E-v-a-n.

Q. Are you some times known as E. C. Powell?

A. Yes, sir.

Mr. Mouritsen: Will it be stipulated this is the gentleman referred to in the complaint as E. C. Powell?

Mr. Painter: Isn't that his name?

Trial Examiner Lindsay: Just a moment. If the complaint calls for a name and the full initials aren't given, and it is proved this is the same individual, I suggest you make a motion to amend the complaint to conform to the proof, if that is a fact.

Q. (By Mr. Mouritsen) Where do you reside?

A. 1140 Norvoe, Corcoran, California.

Mr. Mouritsen: Keep your voice up, Mr. Powell.

Q. Have you ever been employed by the J. G. Boswell Company? A. Yes, sir.

Q. When were you first employed by that company?

A. In the latter part of August, '36.

Q. What type of work did you start to do for the company?

A. Just general work, clean-up and odd jobs at that parti- [581] cular time.

Q. What rate of pay did you receive at first.

A. 35 cents.

(Testimony of Evan C. Powell.)

Q. And what hours did you work?

A. 12 hours.

Q. How many days a week? A. 7 days.

Q. How long did you continue to do general work for the company?

A. Just a short while until the ginning season opened in September some time.

Q. The last of September some time, you say?

A. In September some time.

Q. And the year was 1936, is that right?

A. That is right.

Q. Then what did you start to do?

A. On the press, the cotton press.

Q. And what type of work did you do on the cotton press? A. Tying up cotton.

Q. Did you receive any raise in pay or any change in your hours of work? A. No.

Q. How long did you continue to do that?

A. Just a short while, a few days.

Q. Then what did you do? [582]

A. An engineer's job, running the engines for the gin power, that is the smaller gins, that operate the gins.

Q. And how long did you continue to do that type of work? A. A few days, just a few days.

Q. Then what did you do?

A. I took the main engine plant, at the main power plant, over in the main engine room.

Q. What did you do? Operate the engines?

A. Operated the engines.

(Testimony of Evan C. Powell.)

Q. How long did you continue that type of work?

A. Something over a year.

Q. Yes.

Then what type of work did you next do?

A. The next type of work I did was back to the gin.

Q. And what work did you do in the gin?

A. Tying up cotton.

Q. And how long did you continue to do that work?

A. Just a short while, a week or so.

Q. Then what work did you do?

A. Well, I was injured at that time.

Trial Examiner Lindsay: I didn't get that.

The Witness: I was injured. I received an injury.

Mr. Clark: What date?

Q. (By Mr. Mouritsen) What was the approximate date of your injury? [583]

A. September 27th.

Q. What year? A. '37.

Q. 1937? A. Yes, sir.

Q. And how long were you off with your injury at that time?

A. Well, something about two months.

Q. Then, did you go back to work for the company? A. I did.

Q. What would that be? About November or December of '37? A. About that time, yes.

Q. And what type of work did you do when you went back?

(Testimony of Evan C. Powell.)

A. I went back and worked on the gin for the short while and did odd jobs.

Q. And how long did you continue that type of work? A. Just a few weeks as I recall it.

Q. Yes.

When were you last employed by the J. G. Boswell Company? A. When was I last employed?

Q. Yes. A. November 18, 1938. [584]

Q. Now, from August of 1936 until November 18th, 1938, other than the two months that you were off with an injury, did you work steadily for the Company?

Mr. Clark: May I have that question re-read, your Honor?

Trial Examiner Lindsay: Yes, read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: No, I was off about six months at that time.

Q. (By Mr. Mouritsen): And when was that period that you were out?

A. The Fall, in around January of '38.

Q. And until what time in '38?

A. July 3, 1938.

Q. Yes.

Now, during the time that you employed by the Boswell Company, did you ever receive any increase in pay? A. Never.

(Testimony of Evan C. Powell.)

Q. During the year 1938, did you ever have any conversation with Gordon Hammond relative to obtaining certain information for him?

A. Yes.

Q. When did that conversation occur?

A. Along November 1, about the 6th, on about the 6th, I believe. [585]

Mr. Mouritsen: What was that, Mr. Reporter?

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen): And where did this conversation with Gordon Hammond take place?

A. In the warehouse where the material is stored, in the main warehouse.

Q. Will you keep your voice up? I can't quite hear you.

Was anyone else present other than you and Gordon Hammond? A. No, there wasn't.

Q. Will you state at this—strike that.

What position did Mr. Gordon Hammond hold with J. G. Boswell Company at that time?

A. He is the supervisor over production works at the plant.

Q. Supervising of production and work, did you say? A. Of works, of the plant.

Mr. Clark: I don't think he said production, Mr. Examiner. Let us have the answer as given by the witness.

Trial Examiner Lindsay: Does he now hold the same job that he held then?

(Testimony of Evan C. Powell.)

The Witness: To my knowledge he does.

Q. (By Mr. Mouritsen): This conversation took place where?

A. In the main warehouse.

Q. Is that in the Boswell plant?

A. In the Boswell plant. [586]

Q. Now, will you state what Mr. Gordon Hammond said to you at that time, and what you said to Mr. Gordon Hammond?

A. Well, he came around and said, “‘Coon’”—I am known as “Coon”—he says “‘Coon’”, he says, “‘Coon’, I hear the Union is coming in and trying to organize the boys.”

And he says, “I don’t know how you feel about it, whether you are for the Union or not, but I do know as long as you don’t have anything to do with it that you will have a job here as long as you want to.”

And he says, “I learned some information about who the leaders are of this, and if I can get that, why, there might be some scare could be put in them and get rid of them.”

And he says, “Can you get that information?”

And I said, “It could be obtained, yes.”

He said, “Get in on one of their meetings and find out who their leaders are, and who is in it, and let me know.”

And I then told him it was a pretty serious matter, and what consideration I might receive for such information, that I had been getting 35 cents an

(Testimony of Evan C. Powell.)

hour for the time I had been working there, and it was very difficult to make all ends meet on that rate of pay. And I mentioned I was in some debt at that time.

And he said, "Well, we can fix that up all right."

Q. Did you have any further conversation at that time? A. Not that I recall. [587]

Q. Do you recall whether or not at that conversation anything was said regarding an obligation you were under to Mr. Gordon Hammond?

A. Yes, I do.

Q. Will you state what was said regarding an obligation to Mr. Gordon Hammond at that conversation?

A. I told Mr. Hammond for the consideration of money that I wouldn't be interested, but for obligations I was under to him on a previous matter, I would do what I said.

Q. And to what obligation did you refer at that time?

A. Well, I had issued a check that Mr. Hammond had endorsed, and befriended my family when I was in trouble, during the time I was in trouble over this check.

Q. And because of that obligation, were you imprisoned for a time? A. I was.

Q. And where did that take place?

A. Where was I imprisoned?

Q. Yes.

A. In Hanford, Kings County, up here.

(Testimony of Evan C. Powell.)

Q. Was that in the County Jail at Hanford?

A. That is right.

Correction?

Trial Examiner Lindsay: Yes.

The Witness: This—not for this check that I had en- [588] dorsed, but for another check that I was given the time on. I did no time for the check he had endorsed.

Q. (By Mr. Mouritsen) Had he—strike that.

With reference to the check that he had endorsed, what occurred with respect to the payment of that check?

A. He took the check up and I paid it back out of my salary.

Q. Now, after that time, did you have any further conversation with Mr. Gordon Hammond relative to furnishing him information about the Union or Union members at the plant? A. Yes.

Q. When next did you have such a conversation?

A. Well, I talked with him about it every other day, but at one time——

Q. (Interrupting) Can we fix that time more definitely? Can you give us the approximate date?

A. About the 9th, on or about the 9th, I recall.

Q. Of what month? A. November.

Q. And the year? A. '38. [589]

Q. Now, where did this next conversation take place with Mr. Gordon Hammond?

A. In the warehouse.

Q. Was anyone else present? A. No.

(Testimony of Evan C. Powell.)

Q. Will you state what you said at that time to Mr. Gordon Hammond and what he said to you?

A. I told him that I had been in on one of the meetings and told him the president and secretary and treasurer and vice-president, and the office of the union, the ones that were present there.

Q. Well, will you state the names of those people—strike that.

Did you state to Mr. Gordon Hammond the names of the people who held those offices?

A. I did.

Q. Will you state the names that you gave to Mr. Gordon Hammond on that occasion?

Mr. Clark: May I have the date of this, please?

Trial Examiner Lindsay: This is the 9th, as I understand it.

Mr. Clark: Of November.

Trial Examiner Lindsay: 1938.

Q. (By Mr. Mouritsen) Will you state the names of those officers that you named to Mr. Gordon Hammond? [590]

A. I told him Mr. Lonnie Spear was president, Mr. O. L. Farr was the vice president, Mr. R. K. Martin was secretary and treasurer, and I mentioned others present.

Q. Did you name their names to him?

A. I did.

Q. Will you state all of the names that you can recall that you named to him as being present at that meeting?

(Testimony of Evan C. Powell.)

A. Other than the ones I have mentioned, George Andrade, Elgin Ely, Steve Griffin, Pete Wingo, and Johnston—I do not know his initials. I do not know Johnston's initials—but Johnston, anyway, and Joe Briley, Boyd Ely, and myself.

Q. Was that—do you recall any further conversation that you had with Mr. Gordon Hammond at that time?

A. Well, I mentioned that I was in that meeting and found those present there, but when the business end of the meeting came up, I had to be dismissed, not being a member at that time; and I couldn't get anything further in that. And I believe that I mentioned that there was a charter. I have seen a charter of the American Federation of Labor that was installed that night.

Q. Now, Mr. Powell, previous witnesses have testified that a meeting of the union was held at which a charter was installed on or about November, 1938.

If I tell you that the date of the charter meeting was November 5, 1938, how long afterwards did this conversation that you had with Gordon that you have just discussed take [591] place?

A. After the meeting of the 5th?

Q. No, after the charter meeting, a meeting of the union at which the charter was installed. How long after this conversation that you had with Gordon Hammond take place?

A. (Pause)

(Testimony of Evan C. Powell.)

Trial Examiner Lindsay: Do you understand the question?

The Witness: I do not understand it.

Q. (By Mr. Mouritsen) I believe you have testified that you attended a meeting of the union at which a charter was installed, is that correct?

A. I did.

Q. Now, how long after you attended that meeting did you have a conversation with Mr. Gordon Hammond that you have described?

A. It was the next day I was telling him about the charter, or the next morning.

Q. Okay.

Now, after that conversation, did you have any further conversation with Mr. Gordon Hammond with reference to the union or its members?

A. Yes.

Q. When—strike that.

How long after the conversation that you have just des- [592] cribed did the next conversation take place?

A. The next morning after the meeting at Farr's.

Q. Well, is there any way that you can fix approximately the date of the meeting at Farr's?

A. That was on or about November 16th, because I had signed—I had filed an application and, well, was initiated on the night of November 16th.

Q. Now, where did this conversation with Mr. Gordon Hammond take place?

(Testimony of Evan C. Powell.)

A. Just to the back of the warehouse, the warehouse and 1 and 2 gin.

Q. And was anyone else present at that time?

A. No one.

Q. Will you state what was said to Mr. Gordon Hammond and what he said to you on that occasion?

A. Well, we talked about any new members coming in, just in general, about negotiations we had been making.

Q. At that time did you tell him the names of any new members who came in?

A. Yes.

Q. Will you state the names that you gave to Mr. Gordon Hammond as being new members of the union on that occasion?

A. I told him Mr. Johnston, Mr. Elgin Ely, and Steve Griffin and myself had joined the union.

Q. What—strike that. [593]

Was any further conversation had at that time between yourself and Mr. Hammond?

A. Not that I recall.

Q. Now, directing your attention to that meeting, the union meeting of the night before, about which you talked with Mr. Hammond, did a number of other employees of the company become members of the union at that time?

Mr. Clark: That is the night of the 16th, the night of November 16th?

Mr. Mouritsen: Yes.

(Testimony of Evan C. Powell.)

The Witness: Yes.

Q. (By Mr. Mouritsen) Now, I believe you stated——

Mr. Clark (Interrupting): I think the witness only nodded, Mr. Examiner.

The Witness: I said "Yes."

Mr. Clark: All right.

Q. (By Mr. Mouritsen) And I believe you stated that you yourself were initiated at that time, is that correct? A. Yes, sir.

Q. Will you name the other employees who became members at that time?

A. Elgin Ely, Johnston, and myself.

Q. Do you recall whether or not at that time a Mr. Winslow became a member of the union?

A. Wingo? No. [594]

Q. Winslow, not Wingo.

A. Yes, Walt Winslow.

Mr. Clark: Walt?

The Witness: Yes, Walt or Walter.

Q. (By Mr. Mouritsen) Now, directing your attention back to your conversation with Gordon Hammond the next day, I will ask you did you at that time tell Mr. Gordon Hammond that Walt Winslow became a member of the union on the night before? A. I did.

Q. On November 17th, 1938, did you have a conversation with Tom or Joe Hammond?

A. I did.

Q. Where did that conversation take place?

(Testimony of Evan C. Powell.)

A. In the main warehouse.

Q. Is that in the Boswell Company plant in Corcoran here? A. Yes.

Trial Examiner Lindsay: What date was that?

Mr. Mouritsen: On or about November 17th.

The Witness: November 17th.

Q. (By Mr. Mouritsen) And what time of the day was it? A. In the afternoon.

Q. And who were present at that time?

A. Joe Hammond, Tom Hammond and myself.

Q. Now, will you state the conversation that was had at that [595] time between yourself, Tom and Joe Hammond?

Mr. Clark: Objected to upon the ground it is hearsay as to the respondents in this case, not binding upon any of the respondents, and not constituting, may it please the Examiner, the substantial evidence required to support a finding in a proceeding of this character.

I want to add to the objection that there has been no authority shown in this record from the Boswell Company to either Tom and Joe Hammond, and I will take your Honor's ruling on it.

Trial Examiner Lindsay: He may answer and you may have an exception.

Mr. Mouritsen: Will you read the question, Mr. Reporter?

(The record referred to was read by the reporter, as set forth above.)

(Testimony of Evan C. Powell.)

The Witness: Tommy Hammond called me over to where he and Joe were standing and said, "Coon, can you work on a bale wagon?"

I said, "I thought I could," I hadn't found anything around there yet——

Mr. Clark (Interrupting): I don't quite get the witness' answer, your Honor.

Trial Examiner Lindsay: Will you read the answer, please?

(The record referred to was read by the reporter, as set forth above.) [596]

The Witness (Continuing): ——that I hadn't tackled.

Mr. Mouritsen: Now may I have that question read again, including the last portion, Mr. Reporter.

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) Is that the statement you made at that time?

A. That was the statement that Tommy Hammond made to me.

Trial Examiner Lindsay: The last part that you stated, did you make that statement to them?

The Witness: Yes.

Q. (By Mr. Mouritsen): Well, was any further conversation had at that time? A. Yes.

(Testimony of Evan C. Powell.)

Q. Will you state what further conversation took place?

A. Joe Hammond spoke up and said, "Well, it seems——"

Mr. Clark (Interrupting): This is subject to the same objection? At least I am making the objection?

Trial Examiner Lindsay: Strike the answer and show the objection.

Mr. Clark: Upon the ground of hearsay.

Trial Examiner Lindsay: Have you finished?

Mr. Clark: Yes, your Honor.

Trial Examiner Lindsay: He may answer. [597]
You may have an exception.

The Witness: Joe Hammond spoke up and said, "Work is kind of getting slack in the warehouse." He says, "You be over around 3 and 4 gin in the morning. I might want you to take one of those God damned union employee's jobs."

Q. (By Mr. Mouritsen): At that time did Tom Hammond say anything?

A. He said, "We got to put the quietus on this thing or we will all be out of work."

Mr. Clark: Same objection. I move to strike it upon the same ground.

Trial Examiner Lindsay: Motion denied.

Q. (By Mr. Mouritsen) At that time did you have any understanding of what Tom Hammond meant by "put a quietus to this thing"?

Mr. Clark: Objected to upon the ground it is

(Testimony of Evan C. Powell.)

incompetent, irrelevant and immaterial; calling for a conclusion of this witness.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Mouritsen) Do you recall any further conversation that was had at that time between yourself, Tom, and Joe Hammond?

A. No.

Q. Now, on November 18, 1938, did you have any conversation with Gordon Hammond? [598]

A. Yes.

Q. Where did that conversation take place?

A. In the main office of the Boswell plant.

Q. Approximately what time of the day?

A. Around 8:00 o'clock; about 8:00 o'clock, might be a little before or a little after.

Q. Is that 8:00 o'clock in the morning or 8:00 o'clock at night?

A. In the morning.

Q. Was anyone else present other than yourself and Gordon Hammond? A. No one.

Q. Will you state what Mr. Gordon Hammond said to you and what you said to Mr. Gordon Hammond at that time?

A. He said, "Coon, are you sure Joe Briley, Steve Griffin, and George Andrade are members of the union?"

Q. Did he at that time say whether or not he was going to be away from the plant?

A. Yes.

Q. What did he say regarding his being away from the plant?

(Testimony of Evan C. Powell.)

A. He said, "I am going to be away for a while and the boys are going to have a little get-together over there after awhile, kind of keep things calm if possible." [599]

Mr. Clark: I didn't understand the last.

The Witness: Keep things calm as possible.

Mr. Clark: I still don't get it.

Trial Examiner Lindsay: Keep things calm as possible.

Mr. Clark: Oh.

Q. (By Mr. Mouritsen): Do you recall any further conversation at that time?

A. No, I don't.

Q. What work did you do on the morning of November 18th, 1938, if any?

A. Hauled cotton; bale wagon.

Q. Did anyone direct you to do that type of work on that morning?

A. Well, there didn't seem to be getting started. I had previous orders, the day before, to resume that type of employment the next morning.

Q. Well, now, when you say that, do you refer to the conversation you had had the preceding evening with Mr. Tom and Joe Hammond?

A. Yes.

Mr. Clark: I object to—may I ask that the answer go out, your Honor, until I can get my objection in?

Trial Examiner Lindsay: Yes.

Mr. Clark: I object on the ground it calls for

(Testimony of Evan C. Powell.)

hearsay and for conversations with persons whose authority to speak for [600] the Respondent Company, that is, Boswell Company, has not been shown by this record.

Trial Examiner Lindsay: Objection overruled. He may answer.

Mr. Clark: I suggest that the question be re-read.

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

The Witness: Yes.

Q. (By Mr. Mouritsen) And how long did you continue to work on the bale wagon?

A. We had hauled two loads to the cotton yard; just a short while.

Q. Did you see or attend any meetings held in the Company's plant on the morning of November 18th, 1938? A. Yes.

Q. Do you recall the approximate time that such—you saw or attended such a meeting?

A. About 10:00 o'clock.

Q. Did you see a crowd—did you see the crowd assemble on the morning of November 18th, 1938?

A. Yes.

Q. And approximately how many people did you see in the yard on November 18th, 1938?

A. Well, there was some 60 or 75. [601]

Q. In that crowd, did you see any men who, prior to that time, had given you any instructions or orders regarding your work? A. Yes.

(Testimony of Evan C. Powell.)

Q. Will you state the names of any men you saw in that crowd who, prior to that time, had given you instructions, or orders, regarding your work?

A. Tommy Hammond, Joe Hammond, Bill Robinson.

Mr. Clark: Who was the last one?

The Witness: Bill Robinson.

Q. (By Mr. Mouritsen) Now, were you present during the entire course of that meeting until it disbanded? A. Yes.

Trial Examiner Lindsay: It is 4:30 now. We will adjourn until 9:00 in the morning.

Mr. Clark: Very well, your Honor.

Trial Examiner Lindsay: And we will continue tomorrow until about 2:15 so that we can get out of here in time for others to use this hall.

Mr. Clark: At what time will we take up in the afternoon? I wonder whether I could know that?

Trial Examiner Lindsay: How much time you will have for lunch?

Mr. Clark: Yes.

Trial Examiner Lindsay: We will quit at any time you feel [602] that you want to quit.

Mr. Clark: About 12:00, and pick up at 1:00 again?

Trial Examiner Lindsay: That will be satisfactory.

Mr. Mouritsen: That will be satisfactory.

Mr. Clark: Something like that.

Trial Examiner Lindsay: We will be in recess.

(Whereupon, at 4:30 o'clock P. M., May 23, 1939, the hearing was adjourned to 9:00 o'clock A. M., Wednesday, May 24, 1939.) [603]

American Legion Hall,
Corcoran, California,
Wednesday, May 24, 1939. [604]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Mr. Examiner, before we proceed with the witness who was on the stand at the conclusion of yesterday's session, I would like to call the Examiner's attention to what I believe to be an omission from the transcript of yesterday in the testimony of Mr. R. K. Martin.

I direct your attention particularly to page 536, line 25 of yesterday's transcript, or rather the transcript of yesterday's proceedings, to line 3, page 537.

The statement by Mr. Martin, as it is reported in the transcript, or as it appears in the reporter's transcript, is as follows, and this, I might say, refers to the group in the office of Mr. Gordon Hammond on the morning of November 18th after, as the testimony shows, a number of employees had gone with Mr. Spear and Mr. Martin and Mr. Farr

and other Union members over to the superintendent's office.

Trial Examiner Lindsay: Does the record show that that does refer to that?

Mr. Clark: Yes, indeed. I am calling that to your Honor's attention.

The statement as it is reported is as follows:

"The Witness: We just waited there for a long time—" may I strike that and give the statement just preceding that.

"Trial Examiner Lindsay: Who did you see in there? [606]

"The Witness: We just waited there for a long time, never did nobody show up to fire us, and finally Mr. Robinson put his head out of the door and told us to go back to work, he would be around to straighten it out."

That is the end of the material I am directing your attention to. Now, all of Respondents' counsel noticed at the time, because of its importance to us, and also it appears in Mr. Winslow's notes taken at the time, and our recollection is very distinct on it, that the statement was as follows, and not as reported:

"We just waited there for a long time, never did nobody show up with authority," instead of the words "to fire us," and I would like to have the reporter look back at his notes, Mr. Lindsay, and see if that wasn't what was said. I am quite sure it was. Your Honor sees that it is quite important to us.

Trial Examiner Lindsay: I remember the testimony very distinctly and the words "with authority" were used, and then after that comes the statement that Mr. Robinson stuck his head out of the door.

Mr. Clark: After that, then, the whole statement would read as follows, according to our recollection:

"We just waited there for a long time, never did nobody show up with authority, and finally Mr. Robinson put his head out of the door and told us to go back to work, he would be [607] around to straighten it out." That is our recollection of the testimony.

Trial Examiner Lindsay: That is the correct testimony. There is no doubt about it.

Mr. Clark: May it be stipulated, then—may I have the notes read back, as I am sure they will show that.

Mr. Mouritsen: I am satisfied that the witness did not use the words "to fire us," and in all probability "with authority" was used in that case. I will so stipulate.

Mr. Clark: I think that settles it.

EVAN C. POWELL,

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Direct Examination

(Continued)

Q. (By Mr. Mouritsen): Now, Mr. Powell,

(Testimony of Evan C. Powell.)

when you were last on the stand at yesterday's session, I believe that you testified regarding a meeting of a number of people in the yard of the plant of the J. G. Boswell Company on November 18th, 1938. As I recall, you had already described the appearance of that crowd of people, and I believe you testified also that you were present at that occasion during the entire course of the meeting until it disbanded.

Is that correct? A. Yes. [608]

Q. After—strike that.

What occurred—what did you observe and hear at the time that that crowd in the yard of the company disbanded?

Mr. Clark: Objected to upon the ground it is hearsay and not binding upon any of the respondents, and that such testimony does not constitute substantial evidence required under the Act to support a finding.

Trial Examiner Lindsay: He may answer.

The Witness: Well, the crowd gathered there, and Mr. Jack Ely—

Mr. Mouritsen (Interrupting): No. I mean there has been testimony regarding that and I don't think it is necessary for this witness to go into it.

Q. What happened when the meeting disbanded?

A. Oh. Well, they were in the act—

Mr. Clark (Interrupting): Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: They were in the act of replacing men that had left, that is, union boys.

(Testimony of Evan C. Powell.)

Mr. Clark: Let me have that answer please.

Trial Examiner Lindsay: Yes. Read the answer.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I ask that that go out as not responsive. At least, it is indefinite. I don't know the date. [609]

Trial Examiner Lindsay: He may clear that up. I think it is responsive.

Q. (By Mr. Mouritsen) Did you go over to Gordon Hammond's office after the meeting dispersed in the yard? A. No, I didn't.

Q. What did you do—strike that.

Did you see a number of other people go into the office of Mr. Gordon Hammond?

A. I only saw them go in that direction. I couldn't see the office from where I was.

Q. And did you see a number of men leading Mr. Spear in that direction? A. Yes, sir.

Q. What did you do after those men led Mr. Spear in the direction of Gordon Hammond's office?

A. I stayed just where I was, where the gathering had been.

Mr. Clark: I wonder if your Honor would ask the witness to speak up a little bit.

Trial Examiner Lindsay: Yes. Talk up a little louder.

(Testimony of Evan C. Powell.)

Mr. Mouritsen: And speak more slowly.

Q. You remained in the yard, is that correct?

A. That is right.

Q. After that time did you see any of these people who had gone in the direction of Mr. Gordon Hammond's office return [610] to the yard?

A. Yes, sir.

Q. Approximately how long after you saw them leave?

A. Well, just a short while, ten minutes I would say.

Q. And what did you observe when these people came back from the direction of Mr. Gordon Hammond's office?

A. Well, they endeavored to go back to work and——

Q. (Interrupting) Just state what you observed them do, not what you concluded they were going to do.

Mr. Clark: May I ask that statement go out as not responsive, "they endeavored to go back to work," as being a conclusion of this witness. I take it we are interested in only the objective acts, your Honor.

Trial Examiner Lindsay: The answer may go out. I am not so sure that it is not the proper answer, but it may go out.

Q. (By Mr. Mouritsen) Will you just state what you observed about these people who came back from the direction of Gordon Hammond's office, what they did?

(Testimony of Evan C. Powell.)

Trial Examiner Lindsay: That means, what did you see them do.

Mr. Clark: For the record, I would like to interpose an objection on the ground it is incompetent, irrelevant and immaterial, and not binding on any of the respondents in this proceeding. [611]

Trial Examiner Lindsay: The objection is overruled. You may answer.

The Witness: May I answer?

Trial Examiner Lindsay: Yes.

The Witness: They were trying to get back to their respective positions and——

Q. (By Mr. Mouritsen, interrupting) Well, did you see them do that? Come from the office and go to the places where they ordinarily worked?

Mr. Clark: I ask that the statement, "they are trying to get back to their respective positions," be stricken, your Honor, as being a conclusion of this witness and as being misleading. In other words, one might try against the tide, or he might walk to the place where he was accustomed to work.

Trial Examiner Lindsay: Well, the answer may go out.

Just tell us what you saw them do. [612]

The Witness: Well, the only thing definite, I saw them leave again—they gathered back again in the crowd and they said the employees weren't going to work for the Union men, and they left again.

Trial Examiner Lindsay: You mean left the yard where the meeting was?

(Testimony of Evan C. Powell.)

The Witness: Yes.

Trial Examiner Lindsay: Where did they go, if you noticed?

The Witness: Well, I didn't see them go. I still stayed there. I didn't see where they went. I know where they went, but I didn't see them.

Mr. Clark: Mr. Examiner, I move to strike the statement as to what was said, on the ground it is hearsay.

Trial Examiner Lindsay: The statement may remain.

Q. (By Mr. Mouritsen) What did you do at that time, Mr. Powell?

A. Bill Robinson came around and said——

Mr. Clark (Interrupting): Just a minute.

Q. (By Mr. Mouritsen) Where were you when Bill Robinson came around?

A. Where the gathering had been.

Q. Was anyone else present at that time other than you and Bill Robinson?

A. Not within hearing.

Q. Will you state what Mr. Bill Robinson said to you on that [613] occasion, and what you said to Bill Robinson?

Mr. Clark: Objected to as hearsay and not binding on any of these Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: He said, "You go over and take No. 4 press."

(Testimony of Evan C. Powell.)

I went over where No. 4 was located, and I found that was Joe Briley's job, a Union boy.

Mr. Clark: Now, I ask, may it please your Honor, "I found it was Joe Briley's job, a Union boy—" that is not responsive to the question.

The question was, "What did you do?"

Trial Examiner Lindsay: He is telling what he did. The answer may remain.

The Witness: I found that was Joe Briley's job, a Union boy, and I said, "I can't take that job."

Q. (By Mr. Mouritsen) To whom did you say that?

A. I told Tommy Hammond that I couldn't take that job, that that was a Union boy's job and I would be scabbing on the Union.

Mr. Clark: What was the last?

Trial Examiner Lindsay: He said he would be scabbing on the Union.

The Witness: He said to go over and take No. 1.

Mr. Clark: Your Honor, I am going to object to any statement—rather, I am going to object to this conversation [614] as not being responsive to the question, and being hearsay. I can't get my objection in in view of the manner in which the witness is testifying, Mr. Examiner.

Trial Examiner Lindsay: There is no reason why you cannot get your objection in at any time, because I have told you two or three times that I would strike any answer, and allow you to put in your objection at any time, and rule on it, so that statement is unnecessary.

(Testimony of Evan C. Powell.)

Mr. Clark: Very well. I ask that that answer go out so I will have a chance to object, and ask that the question be re-read.

Trial Examiner Lindsay: It may be so done.
Off the record.

(Discussion outside the record.)

Trial Examiner Lindsay: On the record.

Mr. Clark: I have no objection to the question "To whom did you say that," but this witness has been answering questions like that by giving the conversation, and that doesn't give me a chance to get my hearsay objection in without having a chance to strike the answer.

Trial Examiner Lindsay: Do you have an objection at this time or not?

Mr. Clark: I do not to that question, no, sir. The question is "To whom did you say that?"

Trial Examiner Lindsay: Of what question are you talking [615] about that you did have an objection to?

Mr. Clark: In his answer, Mr. Examiner, he doesn't answer the question "To whom did you say that?" but he says, "I said to so and so this and that," and then he starts to give the statement that the other person says, you see?

Trial Examiner Lindsay: Wait a minute. I understand that. I want to know—you said you didn't have a chance to object. I struck everything. Now, you say you don't have any objection. I want the record straight.

(Testimony of Evan C. Powell.)

Is there a question that you do have an objection to?

Mr. Clark: Now, not at this time.

Trial Examiner Lindsay: What question do you want re-read and the answer stricken?

Mr. Clark: I want the question read.

Trial Examiner Lindsay: You have a motion to strike the answer, is that right?

Mr. Clark: I haven't now, because the answer is stricken, Mr. Examiner. As I understand it, the only place we are in the record—

Trial Examiner Lindsay (Interrupting): Wait a minute. The only place—there is nothing stricken unless you have a motion to strike.

Mr. Clark: I move to strike that.

Trial Examiner Lindsay: Off the record.

(Discussion outside the record.) [616]

Trial Examiner Lindsay: On the record.

Mr. Clark: Now, I move, Mr. Examiner, that the answer to the last question be stricken from the record on the ground it is not responsive.

Trial Examiner Lindsay: May I have the last question and the last answer read?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I am only granting the motion to that last statement. The other answer may remain.

(Testimony of Evan C. Powell.)

Mr. Clark: I understand the motion is granted as to the last part of the answer?

Trial Examiner Lindsay: Yes. I have already stated that on the record, Mr. Clark.

Mr. Clark: May this go off the record?

Trial Examiner Lindsay: Yes. Off the record.

(Discussion outside the record.)

Trial Examiner Lindsay: On the record. [617]

Mr. Mouritsen: Very well.

Q. Now, where were you when you made that statement to Tommy Hammond?

A. At No. 4 gin building.

Q. And at the time when you made that statement to Mr. Tommy Hammond, was anyone else present?

A. Not within hearing.

Q. Now, after that time was any other job offered to you?

A. There was.

Q. And by whom was it offered?

A. Tommy Hammond.

Q. And did he make a statement to you or say anything to you at the time when he offered you another job?

A. He just said—

Q. (Interrupting) No, just say yes or no.

A. Yes.

Q. Now, was anyone else present when he said something to you about taking another job?

A. Not within hearing.

Q. And where were you when he made such statement to you about taking another job?

(Testimony of Evan C. Powell.)

A. No. 4 gin building.

Q. Now, what did Mr. Tommy Hammond say to you about taking another job at that time?

Mr. Clark: Objected to as hearsay; incompetent, irrelevant and immaterial, and not binding on any of these respond- [618] ents.

Trial Examiner Lindsay: He may answer.

The Witness: To go over to No. 1 and take that press.

Q. (By Mr. Mouritsen) Did you make any reply? A. No.

Q. Did you go over to No. 1 press?

A. I did.

Q. Did you have any conversation with anyone while you were at No. 1 press? A. Yes.

Q. With whom did you have any conversation?

A. Derichsweiler, a fellow known as "Good Friday." I can't pronounce his name.

Q. Is he an employee of the plant and was he an employee at that time? A. Yes.

Q. Was anyone else present when you talked to "Good Friday" Derichsweiler?

A. His son.

Q. Do you know his son's name?

A. I do not.

Q. Is it also Derichsweiler, his last name?

A. Right.

Q. Was anyone else present other than those two and yourself? [619]

A. Not within hearing.

(Testimony of Evan C. Powell.)

Q. What conversation took place at that time between yourself and the Derichsweilers?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial, hearsay, and not binding on any of these respondents.

Trial Examiner Lindsay: He may answer.

The Witness: I asked him if that press was the one that Pete Wingo had been operating. He said it was.

Q. (By Mr. Mouritsen) Did you have any further conversation at that time? A. No.

Q. What did you then do?

A. I reported to Mr. Tommy Hammond that that was Pete Wingo's job.

Q. Where was Tommy Hammond when you talked to him after that time?

A. He was at the engine room on that gin building.

Q. And was anyone else present other than yourself and Mr. Tommy Hammond?

A. Not within hearing.

Q. What did Mr. —what did you say to Mr. Tom Hammond and what did he say to you at that time?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; hearsay, and not binding on any of these respondents, [620] no authority having been established in this record from the respondent Boswell to Mr. Tom Hammond to speak for it with regard to any of these matters.

(Testimony of Evan C. Powell.)

Trial Examiner Lindsay: He may answer.

The Witness: I told him that that was Pete Wingo's job, I couldn't take that job.

Q. (By Mr. Mouritsen) Did Mr. Tom Hammond say anything at that time? A. No.

Q. What did you next do after your conversation with Mr. Tom Hammond?

A. Bill Robinson came around.

Q. And where did you—where were you when Bill Robinson came around?

A. Just at the end of the platform where the cotton is rolled, the cotton is rolled out of the building on the ground.

Q. Was anyone else present at that time other than yourself and Bill Robinson? A. No.

Q. Did you have a conversation with Mr. Robinson at that time? A. I did.

Q. What did you say to Mr. Bill Robinson and what did he say to you? [621]

Mr. Clark: Objected to as hearsay, not binding on any of the respondents, no authority having been shown by the respondent Boswell Company to Mr. Bill Robinson to speak for it with regard to any of the matters under investigation; also incompetent, irrelevant and immaterial, your Honor.

Trial Examiner Lindsay: He may answer.

The Witness: He said I'd better throw that God damn button down before the men found out I had it on and scatter up the ground with me.

Mr. Clark: May I have that answer read?

(Testimony of Evan C. Powell.)

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) And what button did you have on at that time?

A. The union button. [622]

Q. Did you see any of the other Union members wearing Union buttons that morning?

A. Yes.

Q. Will you name the other Union members that you saw wearing buttons that morning?

A. Oliver Farr, R. K. Martin, George Andrade, Pete Wingo and Joe Briley.

Q. Was that the first day that you had worn your button at the plant? A. It was.

Q. Prior to that time, had you seen any of these other members of the Union wearing Union buttons at the plant? A. No.

Q. I believe that you stated after you had your conversation with Bill Robinson that you left the plant, is that correct? A. That is right.

Q. Where did you go after you left the plant?

A. O. L. Farr's residence.

Q. Did you see a number of other Union members present at O. L. Farr's house?

A. I did.

Q. While you were present at O. L. Farr's house, did he make a telephone call to Louie Robinson? A. Not that I know of.

Q. Approximately how long did you remain at O. L. Farr's [623] house after you went there?

(Testimony of Evan C. Powell.)

A. It could have been several hours; I don't recall just how long I did stay.

Q. After November 18th, 1938, did you ever have a conversation with Clyde Sitton regarding your return to work at the J. G. Boswell Company's plant?

A. I had a conversation with Clyde Sitton; not regarding going to work.

Mr. Clark: You say not regarding going to work?

The Witness: (Nodding head affirmatively.)

Q. (By Mr. Mouritsen) And who is Clyde Sitton?

A. He was a machinist in the machine shop at the Boswell plant.

Q. Did he ever make a visit to your home after November 18th, 1938?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Mr. Mouritsen: It is preliminary, your Honor.

Trial Examiner Lindsay: May we have who Clyde Sitton is?

Mr. Clark: That was established.

Mr. Mouritsen: That was established. The witness just testified that he is an employee at the Company, as I understand his testimony.

Trial Examiner Lindsay: Off the record.

(Discussion outside the record.) [624]

Trial Examiner Lindsay: On the record.

Q. (By Mr. Mouritsen) Was Clyde Sitton an employee of the J. G. Boswell Company at its Cor-

(Testimony of Evan C. Powell.)

coran plant on or about the time you had any conversation with him after November 18th, 1938?

A. He was.

Trial Examiner Lindsay: Now he may answer. You may have an exception.

Mr. Mouritsen: I will re-frame the question, Mr. Examiner. I believe it has been lost.

Q. After November 18th, 1938, did you have any conversation with Clyde Sitton? A. I did.

Mr. Clark: I object to that as incompetent, irrelevant and immaterial, not binding on any of these Respondents.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Mouritsen) And where did you have this conversation? A. In front of my home.

Q. And approximately—what was the approximate date of this conversation?

A. A few days, just a few days after November 18th.

Q. Was anyone else present other than yourself and Sitton? A. Yes.

Q. Who else was present? [625]

A. Jack Owens.

Q. Who is Jack Owens?

A. He is an employee at the Boswell plant.

Q. Was he an employee at that time?

A. Yes.

Q. What did Mr. Sitton say to you, and what did you say to Mr. Sitton on that occasion?

Mr. Clark: Objected to as calling for hearsay

(Testimony of Evan C. Powell.)

and not being binding upon any of the Respondents to this proceeding; no authority having been shown from the Respondent Boswell Company to Mr. Sitton or Mr. Owens to speak for it with regard to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: There was no conversation between the three, just Clyde Sitton.

Q. (By Mr. Mouritsen) Will you state what Mr. Sitton said to you and what you said to Mr. Sitton?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: He may answer.

The Witness: He said Mr. Hammond would like to see me down at the office.

Trial Examiner Lindsay: What Hammond?

The Witness: Mr. Gordon Hammond. [626]

Q. (By Mr. Mouritsen) Was there any further conversation at that time?

Mr. Clark: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: None that I recall.

Q. (By Mr. Mouritsen) After that time, did you see Mr. Gordon Hammond? A. I did.

Q. How long—strike that.

What was the approximate date when you saw Mr. Gordon Hammond after that time?

A. About the 25th, as I recall it; around the 25th, on or about the 25th of November.

Q. And the year? Of what year?

(Testimony of Evan C. Powell.)

A. Correction. I don't mean—I mean the 15th.

Mr. Clark: What month?

Mr. Mouritsen: Strike that.

Q. Now, what was the approximate date of the conversation that you had with Mr. Gordon Hammond after November 18th, 1938, and after Clyde Sitton told you that Hammond wanted to see you?

A. I place it around the 20th.

Q. Of what month and of what year?

A. November, 1938.

Q. And where did you see Mr. Hammond on that occasion? [627]

A. It was in the main office building.

Q. Was anyone else there other than yourself and Gordon Hammond?

A. Not within hearing.

Q. Will you state what you said to Mr. Hammond and what Mr. Gordon Hammond said to you?

A. Mr. Hammond said, "Coon," he says, "I haven't got anything against you."

Mr. Clark: May I have that read back, Mr. Examiner? I can't follow it.

(The record referred to was read by the reporter, as set forth above.)

The Witness (Continuing): "—you can go back to work if you want to."

I said, "Well, I would be afraid to go back to work after the fellows did what they did the other day."

He said, I need not worry about that, that he

(Testimony of Evan C. Powell.)

would go out there and tell those fellows to lay off and they would do so.

Q. (By Mr. Mouritsen) Did you say anything further at that time?

A. I told him that I better—I joined the Union and I better string along with them, find out what the outcome would be.

Mr. Clark: May I have that answer re-read? [628]

Mr. Mouritsen: “I joined the Union, I better string along with them, find out what the outcome would be.”

Mr. Clark: Is that the answer?

The Witness: That is the answer.

Q. (By Mr. Mouritsen) Did Mr. Hammond say anything further after you told him you were going to string along with the Union?

A. He said, “After I find out that it was all ‘hoey’—that a bunch of fellows claiming something they couldn’t back up, after I found out it was all ‘hoey’, I would come back and if there was anything there, he would give it to me.”

Q. Now, after November—no, strike that.

After that conversation with Gordon Hammond, did he ever notify you to come back to work?

A. No.

Q. Did you ever make application after that time to go back to work? A. No.

Q. Have you earned—strike that.

Have you been employed since November 18th, 1938? A. No.

(Testimony of Evan C. Powell.)

Q. Have you earned any money at all since November 18th, 1938? A. No.

Q. If the National Labor Relations Board should order the Respondent to re-instate you with back pay, would you be willing [629] to accept employment with the J. G. Boswell Company?

A. Yes.

Mr. Mouritsen: You may inquire.

Mr. Clark: May I have Board's Exhibit No. 3?

(The document referred to was passed to Mr. Clark.)

Mr. Clark: Will your Honor pardon me just a moment?

Trial Examiner Lindsay: Yes.

Cross Examination

Q. (By Mr. Clark) Now, Mr. Powell, you first went to work for Boswell Company in August of 1936, is that right?

A. Somewhere about that time.

Q. And was that immediately upon your return to the State of California from the State of Georgia?

A. It was. [630]

Q. Your family lives in Georgia, is that right?

A. My parents?

Q. Yes. I mean, they did live there?

A. Yes.

Q. And they were known to—that is, they were acquaintances of Mr. Gordon Hammond, is that not right? A. That is right.

Mr. Mouritsen: Objected to—I move to strike—

(Testimony of Evan C. Powell.)

Mr. Clark (Interrupting): It is preliminary, your Honor.

Trial Examiner Lindsay: He may answer.

Mr. Clark: Yes. May I have the last?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: Very well.

Q. You, however, had lived in California for some 15 years prior to August of 1936, hadn't you?

A. August 1921, off and on.

Q. In other words, you had lived in California off and on since 1921, is that right?

A. That is right.

Q. And just prior to August of 1926, that is, just prior to your return to California, you had been in Georgia, I think you said?

Mr. Mouritsen: May I have that again? [631]

Mr. Clark: '36, I mean. Let me reframe that.

Q. Just prior to August of 1936 you had been in the state of Georgia, isn't that true?

A. That is right.

Q. Now, what was the occasion for your return to California?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial; and not proving any of the issues in this case.

Mr. Clark: Withdraw that.

Q. What had been your employment in Georgia just prior to coming back to California?

A. I was not employed.

(Testimony of Evan C. Powell.)

Q. How long had you been in Georgia on that occasion?

Mr. Mouritsen: Objected to as immaterial.

Trial Examiner Lindsay: Well, I don't know the purpose of it, but he may answer it.

The Witness: Several years.

Q. (By Mr. Clark) As a matter of fact, just prior to your returning to California you had been indicted for murder in the State of Georgia, hadn't you?

Mr. Mouritsen: Mr. Examiner, I must object. Counsel is continuously out of order. I think if this record is examined you will find the expression that occurs most frequently to date is the fact that Mr. Clark interrupts, interrupting the witness, the Trial Examiner, and counsel for the Board, so [632] that it is impossible to present the facts that have been gathered. I submit that counsel is very often out of order.

Mr. Clark: I am satisfied to submit this to the Circuit Court of Appeals, your Honor, so far as my conduct in this trial is concerned. I think the record is clear in that matter.

Trial Examiner Lindsay: That is out of order. You do not know if you will have a chance to present it to the Circuit Court of Appeals.

Mr. Clark: I assume that.

Trial Examiner Lindsay: You all know the rules of evidence that govern questions put to a witness, and the rule of evidence is that you can only go into

(Testimony of Evan C. Powell.)

questions of that nature when there has been a conviction.

An indictment means nothing. The most innocent person in the world might be indicted for several vicious crimes and without any pretense of even looking into the question as to whether or not a crime has been committed or whether or not he was the probable person who committed the crime——

Mr. Clark (Interrupting): I will take your Honor's ruling on it.

Mr. Mouritsen: I object to the question on the ground it is incompetent, irrelevant and immaterial; and it is not a proper question to test the veracity or to impeach the testimony of this witness in any way, not in this hearing or in [633] any other court in the country.

Mr. Clark: May I suggest this, Mr. Examiner, that although the ruling apparently is going to be that the answer is stricken, Mr. Reporter has just indicated he didn't get the answer and I want it to clearly appear in this record as to what happened, namely, that this witness answered yes to this question.

Trial Examiner Lindsay: I said I struck the answer.

Mr. Clark: I understand that.

Trial Examiner Lindsay: If he answered yes, that is in the record, but the answer is stricken and the objection is sustained.

Mr. Clark: I understand that.

(Testimony of Evan C. Powell.)

Trial Examiner Lindsay: Now, let us not go into matters that are not fair. It is very evident this man is not convicted of murder or he wouldn't be here.

Mr. Clark: He was convicted of another felony.

Trial Examiner Lindsay: That is off the record, too.

Mr. Mouritsen: I submit, Mr. Examiner, that counsel is not presenting the case in any way. It appears to counsel for the Board that he is trying to bait the Trial Examiner into some admission of prejudicial error. Counsel is trying to ball up the record so that it will be impossible to present it to a Circuit Court for decision.

Mr. Clark: I resent that. I have never had that state- [634] ment made in all the years I have been trying cases. I have tried a number of cases in the district courts and up along this coast. I will instruct the Court to allow me to proceed with the cross examination of this witness. I don't propose to be accused of this and that continuously by this gentleman who represents the National Labor Relations Board in this case, or is trying to.

Trial Examiner Lindsay: Well, listen. We are going to get down and try this case and get these facts.

Mr. Clark: That is all I want to do.

Trial Examiner Lindsay: Wait a minute. When I make a statement, I expect that any answer that is made to it will be made courteously and that you

(Testimony of Evan C. Powell.)

will follow the rules of practice of procedure. That goes to everyone in this hearing.

Now, if there are going to be other outbursts and a lot of unnecessary things, it will be necessary to get counsel in here that will follow the rules and regulations of practice.

Mr. Clark: You mean counsel for the respondent, not for the Board?

Trial Examiner Lindsay: I mean all counsel. I didn't say respondent, Mr. Clark. That is a typical example of what you are attempting to do. You are trying to insert things into statements I made that I have no intention of being there. [635] I frankly admit that I have put up with considerable in this hearing, and there is a limit to such patience. All I want in this hearing is courtesy that is due any court. I have gone out of my way to see that your objections have been properly placed in the record and your motions. I have ruled on all of them and stated at the beginning of this hearing that where anyone who made an objection receiving an adverse ruling asked for an exception, the exception automatically appears in the record. And I have received sarcastic remarks.

Let us go on and get the facts in this case. That is what we are here for.

If it is necessary, I have the right to take a witness and examine the witness in order to get the facts.

Now, all I expect is just the ordinary courtesy you

(Testimony of Evan C. Powell.)

would give to any court. I expect the attorneys to conduct themselves as gentlemen and proceed with the examination of these witnesses. That is all I am asking. Now, let us proceed and do that. [636]

Mr. Clark: May I proceed, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark) Please state, Mr. Powell, whether or not you have ever been convicted of a felony in the State of California? A. No.

Correction?

Trial Examiner Lindsay: Yes.

The Witness: This check charge I referred to yesterday was a felony. However, on pleading guilty and on recommendation of the District Attorney to the Probation Officer of Kings County for leniency, there was no doubt that I would get straight probation and, therefore, I plead guilty and got the works, and got four months, and three years' probation.

Q. (By Mr. Clark) As a matter of fact, you were convicted of a felony in February of 1938, weren't you, by the Superior Court of Kings County?

A. I was convicted of a check charge.

Q. Do you know whether or not that was a felony?

A. Yes, it was a felony, and I plead guilty to the charge.

Q. All right.

Now, as a matter of fact, you are on probation now, aren't you? A. That is right.

(Testimony of Evan C. Powell.)

Q. And that is the offense for which you testified on your [637] direct examination you received four years in the County Jail of this County?

A. Four months.

Q. Four months, I mean, in the County Jail of this County? A. That is right.

Q. The sentence in that case being four months in the County Jail and three years' probation?

A. That is right.

Q. Do I understand you to say that during the two years you worked in Georgia immediately preceding your return to California in August of 1936, that you were not employed at all?

A. No, I was not employed.

Q. What was your means of subsistence?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) How long did you work for Boswell Company after you obtained the job you testified to on direct examination in August of 1936, without interruption?

A. May I have that question again?

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.) [638]

Mr. Clark: The question is rather clumsy, and I will reframe it, if I may.

(Testimony of Evan C. Powell.)

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark): Am I correct in stating that you worked for Boswell and Company without interruption from August of 1936 to approximately the 1st of November, 1937?

A. I worked from August—if I recall I had one or two days off for deep sea fishing. After returning back, I worked almost steadily until August the following year, '37.

Q. Until August of '37.

Now, during that year you have just testified to, namely from August, '36 to August, '37, do I understand that you did odd jobs as the work opened up at the Boswell plant?

A. When I first started to work, I did odd jobs until ginning season started.

Q. In other words, you did odd jobs until September of '36, is that true?

A. About that time.

Q. And then you worked practically steadily, with a day off here and there, until August of 1937, is that correct?

A. I didn't have, if I recall, more than one day off.

Q. You didn't work at ginning cotton during all that time, did you? A. No, I didn't.

Q. In other words, the 1936-'37 ginning season ended along [639] in January or February of '37, didn't it? A. Somewhere about that time.

Q. Yes.

(Testimony of Evan C. Powell.)

And then what were you put doing?

A. I was engineering at that time.

Mr. Clark: "I was engineering at that time," I think the answer is?

Trial Examiner Lindsay: Is that the answer?

The Witness: Yes.

Q. (By Mr. Clark): Tell us what you mean by that with relation to this particular Company?

A. What do I mean by—

Q. (Interrupting): By the term "engineering."

A. Oh, yes, that is oiling, swabbing up grease, wiping machinery and keeping things up spick and span.

Q. And the machinery you referred to are the machines or engines which run the gins, is that correct? A. Not at that time.

Q. What engines are you referring to?

A. In the generator room where the power is generated.

Q. How long did you continue in that job, straight through from February to August of '37?

A. Somewhere around the latter part of August, as I recall it, and after I returned from vacation.

Q. How much of a vacation did you have? [640]

A. About two weeks or less.

Q. And when was that? A. In August, '37.

Q. I see.

Did you take your vacation before you finally were laid off in August of '37? A. Yes.

Q. And for how long after your vacation was

(Testimony of Evan C. Powell.)

over did you work at the plant in any capacity, before you were laid off?

A. I was laid off immediately after I returned from vacation.

Q. I see.

Now, when were you next employed at Boswell's after August of 1937? A. At what position?

Q. No. When; in any capacity?

A. Just a few days, maybe one day.

Q. Well, I understand this lay-off you are telling us about was only for a day or so?

A. That is right. [641]

Q. Then what job were you employed in at the plant?

A. I worked around digging a ditch for a few days until ginning season started, digging ditches.

Q. Didn't the ginning season start that year, this being the 1937-'38 season, along in middle September?

A. I think so, somewhere along in there.

Q. Do I understand that you worked from some time in August to the middle of September at digging ditches?

A. I couldn't say just how long, some time—I do not know how long I was digging ditches.

Q. Please give us your best approximation of it.

Trial Examiner Lindsay: I believe he answered that he did odd jobs like that.

Mr. Clark: He said a day or so.

Trial Examiner Lindsay: He concluded by stating until the gin opened up.

(Testimony of Evan C. Powell.)

Mr. Clark: Very well.

Q. You didn't do any other work other than digging ditches until the gin opened up, isn't that true?

A. I did other work than digging ditches.

Q. Well, what? A. General work.

Q. Tell us what it is, briefly.

A. I don't recall what I did.

Q. Sort of handy work around the plant? [642]

A. Yes.

Q. And then in September of '37 what position or what job were you put at?

A. Tying up cotton.

Q. And how long did you do that?

A. Just a few weeks.

Q. And then what happened?

A. I had an injury.

Q. All right.

That brings us up, doesn't it, Mr. Powell, to November 1 of 1937, approximately?

A. To my best knowledge.

Q. Yes.

And what was this injury that you sustained?

A. A finger.

Q. What happened to it?

A. A press door caught my finger on top of a fire barrel and an oil drum being used as a fire barrel.

Q. I see.

And you, of course, received workman's compensation payments for that, didn't you?

(Testimony of Evan C. Powell.)

A. Oh, yes.

Q. As a result of that injury you were away from the plant about two months, weren't you?

A. That is right. [643]

Q. That is, November and December?

A. Yes.

Q. And then Mr. Gordon Hammond got in touch with you and asked you whether you were in shape to work, is that not right?

A. Well, I think the doctor released me and gave me permission to go back to work.

Q. At the time the doctor released you, your compensation payments stopped for that period of time, didn't they? A. I believe so.

Q. Yes.

During the two months you have referred to, you received these payments periodically, didn't you?

A. All but about eight days—it started the eighth day after the accident.

Q. And then the doctor representing the insurance company released you and your payments stopped, isn't that true?

A. As I recall, yes.

Q. Yes.

Now, at that time didn't Mr. Gordon—withdraw that.

You have a wife and two children here, haven't you? A. Yes, sir.

Q. Your wife is from Georgia? A. Yes.

Q. Didn't Mr. Hammond get in touch with you

(Testimony of Evan C. Powell.)

then and ask you [644] whether you were in shape to do any work at the plant?

A. I did work. I don't recall.

Q. I am asking you the occasion for your going back.

A. I don't recall just how it came about that I returned to work.

Q. Would you say that Mr. Gordon Hammond did not of his own volition get in touch with you and ask you if you were in shape to do any kind of work at the plant?

A. I should think he did, or would.

Q. Yes.

In other words, you didn't go and make application to him, did you?

A. I don't recall how it came about.

Q. And at that time did you say to Mr. Gordon Hammond that you couldn't do any of the kind of work that you had in the past?

A. I did.

Q. Because of this injury?

A. I think so.

Q. And did he then tell you—

A. (Interrupting): Correction.

Q. All right.

A. The type of work that I had got injured on, not the kind that I had done in the past.

Q. I see. [645]

Then did Mr. Gordon Hammond tell you that due to some cotton being piled in the yard they were using a day and night watchman and he would put you on in one of those jobs?

(Testimony of Evan C. Powell.)

A. Some time in that fall, yes.

Q. Now, I am directing your attention, Mr. Witness, to the time after your compensation payments stopped, which is almost the first of the year, 1938, according to your own testimony.

A. Yes, he offered that proposition.

Q. Yes.

Trial Examiner Lindsay: Just a moment. Is that '38?

Mr. Clark: '38. I think the testimony shows the injury was in '37.

Trial Examiner Lindsay: All right.

Mr. Clark: May I have the last question and answer?

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark): And he offered it at about the first of the year 1938, didn't he?

A. About that time.

Q. In fact—withdraw that.

I will show you your employment sheet for the year 1938, in Board's Exhibit No. 3, which is listed under your name, Evan C. Powell, and direct your attention to the first entry which is 1/6, meaning January 6, 1938, and I will ask you if, [646] examining that refreshes your recollection as to the time when Mr. Hammond had the conversation you have just told us about with you.

A. Well, I say that was offered. I don't recall just what time it was. [647]

(Testimony of Evan C. Powell.)

Q. Here is my question: After looking at the record I have just shown you, can't you tell us, or isn't it a fact, that the conversation with Mr. Gordon Hammond we have just been discussing occurred the day prior to January 6th of 1938?

A. It might indicate it by this. I don't know.

Q. I want your recollection, if it is refreshed at all by this?

A. Somewhere about that time.

Q. All right.

Pursuant to that conversation, you then went back to work at the Boswell plant around the first of the year '38?

A. No. I don't recall going back to work until July 3rd.

Q. Well, don't you recall receiving a check for a period ending January 6th, 1938?

A. I don't remember that at all. I could have.

Q. Now, it is your testimony, Mr. Powell, that you did not return to work at the Boswell plant at all after you were injured?

A. After this proposition was made, after the offer of night duty, watchman's duty.

Q. Now, let us see.

You were injured around the 1st of November, 1937, weren't you?

A. Injured, as well as I remember, the 27th of September, '37. [648]

Q. November, 1937, isn't that true?

A. I don't think so; September.

(Testimony of Evan C. Powell.)

Q. Well, now, you think about it, and let us have your best answer?

A. The record will show that.

Q. Let us have your best answer on the approximate date of your injury, and bear in mind that I am not concerned with the exact date. I only want the month?

A. I was injured in the first part of the ginning season that year.

Q. What is your best recollection so far as the time you were injured, at this time?

A. It is customary, I think, the gin season starts in September some time—I don't—in the Fall of that year.

Q. Well, is it your best recollection—

Trial Examiner Lindsay (Interrupting): Now, just a moment.

Mr. Clark: Yes.

Trial Examiner Lindsay: You are getting this witness all confused, and you do have records, don't you, from the doctor and from the insurance company, that shows the exact day?

Mr. Clark: I thought, Mr. Examiner, it was all agreed between the witness and myself and counsel for the board and the records, and everything else, that he was injured around the first of November, 1937, and now he is apparently unable [649] to remember whether it was November or September.

Trail Examiner Lindsay: I think his testimony was it was in September; he was injured right after the season started.

(Testimony of Evan C. Powell.)

Now, if his memory isn't good on the matter, and you are trying to change that, I suggest you change it by documentary proof.

Mr. Clark: I think I am entitled to test the recollection of this witness, too.

Trial Examiner Lindsay: Yes, I understand that. I want it right in the record.

Mr. Clark: That is all right, too.

Q. Mr. Powell, will you give us—withdraw that.

Will you tell us again how long it was you worked at the Boswell plant after you were re-employed in August of 1937?

A. After I was employed August '37?

Q. Yes, that being the time when you told us you dug ditches for a few days, and then did odd jobs until the ginning season started?

A. I returned on my engine job for a few days. I could explain that so you would understand it better, if you permit me.

Q. No, the question is this : I want you simply to tell us how long you worked in any capacity at the Boswell plant after you were re-employed in August of 1937, that is, immediate- [650] ly after your two weeks' vacation?

A. I returned to my job for a few days. It had been arranged—I had asked for an extension of vacation to go up North, and it had been granted by Mr. Hammond, Mr. Gordon Hammond, the superintendent, and they had arranged for another boy to work in my place while I was gone—through Mr.

(Testimony of Evan C. Powell.)

Gordon Hammond. For some mysterious reason, Tommy Hammond wanted another party on that job, so he laid me off.

I then returned to Mr. Gordon Hammond stating to him that Tommy Hammond had laid me off, and what to do about it.

“You come back in the morning. We will find something for you to do.”

So I did dig ditches and odd jobs until the ginning season started. Then I took the head press job on one of the gins.

Q. Now, how long——

A. (Interrupting): I worked there just a few weeks, as I recall it, until I had the injury.

Q. All right.

Now, will you please fix the date of the injury for us as best you can? What is your best recollection of it?

A. Well, now since I recall it, it is September 27th, on or about September 27th.

Q. All right.

Then, do I understand that you did not work again in any capacity at the Boswell plant here in Corcoran for the balance [651] of that year, namely 1937?

A. Approximately two months.

Mr. Clark: May I have the question re-read to the witness, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(Testimony of Evan C. Powell.)

The Witness: I do understand the question.

Trial Examiner Lindsay: You understand the question? The Witness: Yes, sir.

Q. (By Mr. Clark): Did you return to work in any capacity at the plant any time during the balance of that year, 1937, after you were injured on September 27th? A. I think so.

Q. All right.

And when was that, please?

A. I was off about two months with the injury.

Q. Well, that would bring us up to the last of November, according to this calculation, Mr. Powell.

Is it your testimony that you worked from the last of November on through to the end of the year at the plant?

A. I was off from the injury about two months, and returned back to work.

Q. You are positive of that, are you?

A. I think so.

Q. All right.

Now, what job were you put at when you returned back to [652] work after your injury?

A. Oh, clean up; school boy jobs.

Q. And for how long did you continue on those jobs?

A. Oh, for some time. I never did any steady work or any particular work after that.

Q. Well, how long would you say?

A. Until July 3rd.

Q. Of 1938?

(Testimony of Evan C. Powell.)

A. Yes, that I did any labor to amount to anything.

Q. I don't think that you understand my question.

A. Yes, I thoroughly understand it.

Mr. Clark: May I have the question read back to the witness, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Mr. Clark: To see whether he has it in mind?

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark): All right.

Now, do I understand from that that you didn't do any work at all at the Boswell Company from around the 1st of the year 1938 until July 3rd, 1938?

A. I didn't say I didn't do any work. I did—I was on the payroll, and I did odd jobs, various things.

Q. How do you know you were on the payroll?

A. I drew checks for it. [653]

Q. Mr. Powell, let me direct your attention again to your Social Security record for the year 1938, and particularly to the fact that there is no entry between the entry of January 6th, 1938 and July 7th, 1938?

A. I am telling you that was my——

Q. (Interrupting): Showing that no sum of money was paid to you by this Company.

Now, after, upon examining that, is your recol-

(Testimony of Evan C. Powell.)

lection refreshed so you can tell us whether or not you did any work at all for the Boswell Company during the period from January 6th, 1938 to July 7th?

A. No, I don't say I did any work during that period. I say after the injury I resumed work about two months for a period, and then along about the last of the year, I didn't resume work then until July 3rd.

Q. All right.

Trial Examiner Lindsay: That was his first answer that he gave on the record.

Q. (By Mr. Clark): Your testimony, then, is that upon the expiration of two months after your injury, you went back to work at the Boswell plant, is that right? A. I think so.

Q. All right.

And I think you told us you did odd jobs at that time? A. Yes. [654]

Q. Is that right? A. Clean-up work.

Q. All right.

How long, as near as you can remember now, did you continue working for Boswell on that occasion?

Mr. Mouritsen: I object to the question on the ground it has already been asked and answered twice.

Trial Examiner Lindsay: Yes. We have gone into that fully.

Q. (By Mr. Clark): Am I correct in stating, then, that you worked for two months at jobs like that? A. No.

(Testimony of Evan C. Powell.)

Q. Well, how long, please, because that is the only testimony in there on it?

A. As I recall, I did odd jobs for some period in there, not steady, just—I didn't do steady work after my injury.

Q. At no time after your injury?

A. Until July 3rd.

Q. All right.

What is your best estimate of the time during which you did these odd jobs which you said commenced upon the expiration of two months after your injury? A. I don't know exactly.

Q. Was it a matter of a month?

A. The records will show it. I don't recall it exactly. [655]

Q. Can you give us any estimate of it?

A. No.

Mr. Mouritsen: I object to it on the grounds it is already asked and answered.

Trial Examiner Lindsay: Proceed to something else. That has been fully covered.

Mr. Clark: All right.

Q. How did it happen that you ceased your employment—that is, the doing of these odd jobs, during that period of time? A. Why I ceased?

Q. Yes.

A. Well, after my injury, I got to hitting up the booze a little bit, and went haywire, gambling; gambling and booze story, got in a little trouble, and got in jail.

(Testimony of Evan C. Powell.)

Q. Well, do I understand that you were employed at the Boswell Company at the time you were convicted of the felony you have told us about?

A. No, I was not employed.

Q. In other words, you were down in Los Angeles prior to that? A. San Bernardino.

Q. You were where? A. San Bernardino.

Q. Hadn't you gone to Los Angeles just prior to the time you were convicted? [656]

A. Yes. I went to Los Angeles, and then down to San Bernardino.

Q. All right.

Then if I understand you correctly, Mr. Powell, sometime near the end of the year 1937 you got to drinking and gambling, and thereupon stopped working at these odd jobs for Boswell Company, is that true? A. I did.

Q. Yes. A. I wasn't working.

Q. All right.

Then was it after that, namely just prior to January 6th of 1938, that Mr. Gordon Hammond got in touch with you and said that if you would come around, he would put you to work at being a watchman?

Mr. Mouritsen: Objected to as assuming facts not in evidence, and contrary to the evidence already put in by the witness.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Just a minute.

Have you finished?

(Testimony of Evan C. Powell.)

Mr. Mouritsen: I made my objection.

Trial Examiner Lindsay: He may answer that.

The Witness: Read the question.

(The question referred to was read by the reporter, as [657] set forth above.)

The Witness: That was when I left and went to Los Angeles and San Bernardino.

Mr. Clark: All right.

Q. And wasn't it just prior to January 6th of '38. A. About that time. [658]

Q. Yes.

Now, as a matter of fact, you did go to work for a few days at the job Mr. Hammond offered you, didn't you, and in that connection I want to direct your attention to the entry, Board's Exhibit No. 3, showing that as of the date of January 6th a check for \$12.60 was paid to you.

Mr. Mouritsen: I object to the question upon the ground it is confusing, compound.

Mr. Clark: I ask that it be read, and then will take your Honor's ruling on it.

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I think you ought to divide those two questions.

Mr. Clark: Very well.

Q. I first want to direct your attention to the entry, the first entry on Board's Exhibit No. 3 on

(Testimony of Evan C. Powell.)

your sheet entitled "Evan C. Powell," the entry being January 6, 1938, \$12.60. I will ask you to look at that, Mr. Powell.

A. (Examining document)

Q. Do you see that entry?

A. Yes, I see that.

Q. Now, I want to ask you if it isn't a fact that you did go to work at the Boswell plant at the job Mr. Hammond had [659] offered you just prior to January 6th? A. I did not.

Q. And that you worked there for a few days?

A. I did not go to work at the job Mr. Hammond offered me as watchman.

Q. Did you receive the check for \$12.60, the record of which I have directed your attention to in Board's Exhibit No. 3?

A. I don't recall receiving a check. I might have and I might not.

Q. You are quite sure you did not work, however, at that time? A. I am.

Trial Examiner Lindsay: He said at the job, as I understand it—

The Witness (Interrupting): At this job he offered me.

Q. (By Mr. Clark): Did you ever do any other work at Boswell's at that particular time?

A. I don't recall that I did; a very nervous stage at that time. I don't remember just exactly what took place.

Q. I see.

(Testimony of Evan C. Powell.)

Now, it was just about this time, wasn't it, Mr. Powell, that in addition to the fictitious check upon which you were convicted and sentenced by the Superior Court of Kings County, as you have already testified, that you uttered another false [660] check for \$60 drawn on a bank in Georgia, and requested Mr. Gordon Hammond to endorse it for you?

Mr. Mouritsen: I object to that on the ground he is asking the witness legal questions, calling for legal conclusions.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: He may answer.

The Witness: May I have that question?

(The question referred to was read by the reporter, as set forth above.)

The Witness: The check Mr. Gordon Hammond endorsed——

Mr. Clark (Interrupting): Please answer the question and then explain.

The Witness: I can't answer that question——

Trial Examiner Lindsay (Interrupting): Explain. He may answer and explain it.

Mr. Clark: That is what I am suggesting.

Trial Examiner Lindsay: We want the truth.

The Witness: The check that Mr. Gordon Hammond endorsed for \$60 was a check before I made another check for \$15, a gambling check that I was convicted for. I was not convicted for the \$60 check

(Testimony of Evan C. Powell.)

that Gordon Hammond endorsed. I was convicted of a \$15 check issued in a gambling debt.

Q. (By Mr. Clark): I understand that.

A. He had no endorsement on that check. [661]

Trial Examiner Lindsay: May I ask a couple of questions right here?

Mr. Clark: Yes.

Trial Examiner Lindsay: This \$15 check you say that you were convicted on was a gambling check? What do you mean by that?

The Witness: Well, I mean I was in a poker game and received chips that I lost on a poker game and paid off.

Trial Examiner Lindsay: With a \$15 check?

The Witness: \$15 check.

Trial Examiner Lindsay: Then you paid a gambling debt with that \$15 check, is that right?

The Witness: That is right.

Trial Examiner Lindsay: And you were convicted on that gambling check?

The Witness: Yes.

Trial Examiner Lindsay: Did the prosecuting attorney know that that was a gambling check?

The Witness: He did.

Trial Examiner Lindsay: You may proceed.

Q. (By Mr. Clark): Now, as a matter of fact, Mr. Powell, what you really did with that \$15 check was to go outside and have a person who was not in the game cash a check for you and then you brought cash back into the game and lost it, isn't that right? [662]

(Testimony of Evan C. Powell.)

A. That is not right.

Trial Examiner Lindsay: What is that?

The Witness: That is not right.

Q. (By Mr. Clark): You are sure of that?

A. I am positive.

Q. Was the man who cashed the check and who made the complaint against you to the District Attorney for the issuance of this fictitious check, that is, the \$15 check, sitting in the poker game?

The Witness: May I have that question?

(The record referred to was read by the reporter, as set forth above.)

The Witness: No, he was not.

Q. (By Mr. Clark): So that I am correct in stating, am I not, that the thing you did was to go out and have someone who was not gambling with you cash the check and then you paid the proceeds of it over to the persons to whom you lost it?

A. I did not go out and I had no one to cash the check.

Q. Well, tell us what you did, please.

A. I was—this check—Mr. Gordon Hammond—

Q. (Interrupting): I am not talking about that.

A. I will have to do that to explain.

Trial Examiner Lindsay: Explain the whole details.

Mr. Clark: Very well. [663]

The Witness: The check I had issued for \$60 that Mr. Gordon Hammond had cashed, I was play-

(Testimony of Evan C. Powell.)

ing that in a poker game and lost it, and when the game wound up I owed \$15 more that I had lost, or they claimed I had lost in the game, gambling. I had been drinking. They claimed that I owed \$15 more. I had previously issued to the amount of several hundred dollars, to this same party, checks on the local bank here, stating and with the understanding that if there were no funds in the bank, that he would hold them, from time to time, as I would lose chips, and on payday I would go in and take the checks up without any trouble at all.

On giving this check, I told him that this check might come back, if it did I would make it good as I did hundreds of dollars of other checks good. That was perfectly all right.

Trial Examiner Lindsay: That was the same man to whom you had given these other checks?

The Witness: That is right.

Trial Examiner Lindsay: And when you gave him these other checks, you went back in and picked them up on payday, is that right?

The Witness: Yes.

Trial Examiner Lindsay: Now, did he ever question any of your checks that you gave him at the time you told him they were not good but that you would pick them up on payday? [664]

The Witness: Never.

Trial Examiner Lindsay: And is this the same man who got this \$15 check?

(Testimony of Evan C. Powell.)

The Witness: That is right.

Q. (By Mr. Clark) As I understand, he wasn't taking part in the game, is that right?

A. He was the owner of the game. He was not playing in the game. He was running the house, the houseman.

Q. Well, what is his name?

A. Bill Carden.

Q. And *who* is his occupation?

A. He is a saloonist, a saloon keeper.

Q. And where, please?

A. At the establishment known as Bill and Max Carden's establishment—it was at that time—he lost out, now.

Trial Examiner Lindsay: Now, may I have one more question? I want the truth on this matter.

This Bill Carden, the man you gave this \$15 check to, was the operator of this saloon and also of the gambling table?

The Witness: Well, he had a man running the game. It was his establishment. He kept a man running the game.

Trial Examiner Lindsay: But that was done right there in his building?

The Witness: Yes. [665]

Trial Examiner Lindsay: He is the man you had been giving these checks to?

The Witness: Yes, sir.

Trial Examiner Lindsay: And you always went back on payday and picked these checks up?

(Testimony of Evan C. Powell.)

The Witness: That is right.

Trial Examiner Lindsay: When you gave him this \$15 check, you told him that the check was likely to come back?

The Witness: Yes.

Trial Examiner Lindsay: And he took the check with that understanding?

The Witness: Yes.

Mr. Clark: I will object to that, what the understanding was when the man took the check.

Trial Examiner Lindsay: He told him—that is his testimony.

Mr. Clark: I will object to the Examiner's question and take a ruling on it.

Trial Examiner Lindsay: All right.

Now, as I understand it, you said you told the men whom you gave the \$15 check to, at the time you gave it to him, that the check might come back?

The Witness: Yes.

Trial Examiner Lindsay: As you had done in the past?

The Witness: Yes. [666]

Trial Examiner Lindsay: Now, the next payday did you go in and say anything to him about that \$15 check?

The Witness: I wasn't *work* at that time.

Trial Examiner Lindsay: You weren't working at that time?

The Witness: No.

Trial Examiner Lindsay: Did he know you were not working at that time?

(Testimony of Evan C. Powell.)

The Witness: He knew I wasn't working at that time.

Trial Examiner Lindsay: You told him that you were not working?

The Witness: Yes.

Trial Examiner Lindsay: Now, were all of these facts presented at any time to your knowledge to the prosecuting attorney?

The Witness: They were.

Trial Examiner Lindsay: And that is the check upon which you were convicted?

The Witness: That is right, on the strength of the \$60 check they had found out that Mr. Hammond had taken up, the \$60 check. They knew it was a gambling check, and they went down and got the \$60 check that Mr. Gordon Hammond endorsed to convict on this \$15 check.

Trial Examiner Lindsay: May I ask you this question: Did Gordon Hammond sign any complaint against you? [667]

The Witness: He did not. I repaid him that check out of my salary.

Mr. Clark: May I have that again?

The Witness: I repaid him that check out of my salary.

Mr. Clark: All of it?

The Witness: Yes.

Mr. Clark: May I proceed, please, with my examination?

Trial Examiner Lindsay: Yes.

(Testimony of Evan C. Powell.)

Q. (By Mr. Clark) Can you tell us to whom you paid the proceeds of the \$15 check which Carden cashed? A. To whom I paid the proceeds?

Q. Yes.

A. That check has not been paid.

Trial Examiner Lindsay: He doesn't quite understand.

Who did you give the money to?

Mr. Clark: Let me reframe the question and withdraw the other.

Q. Mr. Carden cashed a \$15 check for you, didn't he?

A. He did not cash a \$15 check. He gave me chips for the check.

Q. He gave you chips for the check?

A. Uh huh.

Q. Didn't give you money, is that right?

A. No.

Q. To whom did you lose the chips? [668]

A. Oh, Dick, Tom, and Harry.

Q. I see. Not to Mr. Carden? A. No.

Q. Now, it was prior to that, wasn't it, Mr. Powell, that you had dropped by Gordon Hammond's home and asked him to endorse a check drawn by you on a bank down in Georgia?

A. It was prior, you said?

Q. Yes. It was before this \$15 check incident, wasn't it? A. That is right.

Q. That was a check for \$60, wasn't it?

A. Yes, sir.

(Testimony of Evan C. Powell.)

Q. And you didn't have any money in the Georgia bank, did you?

A. I did not, evidently.

Q. No.

And Mr. Gordon Hammond endorsed your check for \$60, didn't he, on that occasion?

A. Yes, he did.

Q. Now, he wasn't a party to this gambling game, was he? A. No, sir.

Mr. Clark: May I have a recess at this time?

Trial Examiner Lindsay: Yes.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: The hearing is called to order. [669]

Mr. Clark: May I proceed?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark) Mr. Powell, you stated a few moments ago on your cross examination that apparently there wasn't any money in the Georgia bank to meet the \$60 check.

Trial Examiner Lindsay: I think we have covered that.

Mr. Clark: I would like to develop it a little if I may.

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark, continuing) —which Mr. Gordon Hammond had endorsed for you. Do you remember that statement?

(Testimony of Evan C. Powell.)

A. I didn't make the statement as you stated it.

Q. Did you use the word "apparently"?

A. I think so.

Q. Did you have any reason to believe there were funds against which you could draw in the Georgia bank? A. No.

Q. You don't have an account there in the Georgia bank?

A. No, I did time for not having an account there.

Q. What?

A. I did time for not having an account there.

Mr. Clark: I want to show you this, Mr. Mouritsen.

(The document referred to was passed to Mr. Mouritsen.)

Mr. Clark: Will your Honor pardon us a few minutes while counsel examines the exhibit? [670]

Trial Examiner Lindsay: Yes.

(Short interruption while counsel examines exhibit.) [671]

Q. (By Mr. Clark) Now, Mr. Powell, I show you what purports to be the original file from the County Clerk's office of the County of Kings, State of California, in the matter of The People of the State of California versus E. C. Powell, Criminal, 1465.

Mr. Mouritsen: Is that the number of the County—

(Testimony of Evan C. Powell.)

Mr. Clark (Interrupting): That is the number of the proceeding, eriminal.

Q. (Continuing): —and particularly to the original transcript of the hearing held on February 24th, 1938 in that matter, and I will ask you to simply read to yourself the portion of the transcript commencing with line 15 on the 5th page, to and including line 10 on the 6th page.

Mr. Clark: May I have it read back to me? I think it made sense the way the question is, although I broke off in the middle.

Trial Examiner Lindsay: He can understand it. It is right there. If he doesn't, he can ask you or me and we will explain it to him.

Mr. Clark: I am only interested down through line 10 for the time being.

Q. I want to ask you, Mr. Witness, first: It is a fact, isn't it, that you were present throughout this entire hearing?

A. This preliminary hearing just referred to? [672]

Q. Yes. A. That is right.

Q. Will you please tell us whether or not at the preliminary examination in the case of The People of the State of California versus E. C. Powell, No. 1465, Criminal, in the City Court of the City of Corcoran, County of Kings, State of California, the following answers were asked by Mr. Walsh, the District Attorney of Kings County—

Trial Examiner Lindsay (Interrupting): You don't mean answers.

(Testimony of Evan C. Powell.)

Q. (By Mr. Clark) (Continuing): —the following questions were asked by Mr. Walch, the District Attorney of Kings County, of Mr. Carden, and whether he gave the answers to the questions as follows:

“Q. Was this check made out and delivered to you by the defendant, E. C. Powell?

“A. Made it out right on the bar and where I cashed it.

“Q. At your place of business?

“A. At my place of business.

“Q. And what did you give him for it?

“A. \$15.00.

“Q. In cash?

“A. Three five-dollar bills.

“Q. I see. You don't know, I presume, what he used this money for? [673]

“A. I think I do.

“Q. What? A. Playing poker.

“Q. He went back and played poker. In your place of business? A. Uh huh.

“Q. At the time he cashed it he hadn't lost that in a game, had he? A. How's that?

“Q. At the time he cashed this check he hadn't lost this money in a game there, had he?

“A. I couldn't tell you. He came up and asked me to cash another check. I had cashed one for sixty. A few days before that he brought it in there, made out on the same bank,

(Testimony of Evan C. Powell.)

with Mr. Hammond's signature on it, and he asked me if I would cash it with his signature and I told him I would, we looked at it and recognized the signature so I cashed it." [674]

Q. Were those questions asked by the District Attorney Walsh of Mr. Carden on the occasion referred to, and did he give those answers in your presence?

A. If those answers were given—if those questions were asked, I don't recall it, but if they were asked and answered, they weren't correct.

Q. Can you tell us whether or not, as nearly as you can recollect, the questions which I have read to you were in fact put to Mr. Carden by District Attorney Walsh, and whether Mr. Carden in your presence gave those answers?

Mr. Mouritsen: I object to the question unless the witness knows or recalls.

Mr. Clark: That is all I am calling for.

The Witness: I recall nothing that was said or done during that hearing.

Q. (By Mr. Clark): Now, I also want to direct your attention, Mr. Powell—

Trial Examiner Lindsay (Interrupting): Isn't that Carden here in the city now?

Mr. Clark: I do not know if he is or not. I am going to offer the transcript of the proceeding in evidence. It was obviously in the presence of this witness, but I can't offer the original file. I have to

(Testimony of Evan C. Powell.)

furnish a certified copy.

Q. I also direct your attention, Mr. Powell, in the same transcript in the same trial, to what purports to be your testi- [675] mony on February 24th, 1938, in which connection I will ask you to take a few minutes and read it to yourself, commencing on the 11th page of the transcript.

A. I can save the Court time and trouble going over this for reasons I would like to explain.

Trial Examiner Lindsay: You may explain any reasons you have; I mean, anything in connection with that hearing.

The Witness: Any procedure in this hearing—I don't recall anything about it due to the fact that when the officer got me from San Bernardino I had been on a several weeks' drunk, and they rode me in a car all night and all night long, and got me out of bed. I was ill with pneumonia. They rode me up all night, and I almost froze to death. And they put me to bed on a concrete slab; and I was seriously close to pneumonia, and under those conditions, I don't remember a thing in the world of that procedure at all.

Mr. Clark: May I ask, Mr. Examiner, if the witness wants to do so, to read what purports to be the testimony in the original transcript?

The Witness: I do not know anything that happened in that procedure. It wouldn't do any good.

Q. (By Mr. Clark): I will ask you whether or not on this occasion, namely, at the preliminary hearing of the matter referred to, on February 24th,

(Testimony of Evan C. Powell.)

1938, the District Attorney Walsh asked you the following questions, and whether you gave [676] the following answers:

“E. C. POWELL

“called, sworn and examined as a witness, testified as follows:”—

By the way, before I go on with this, do you remember being sworn at this hearing?

A. I guess I was sworn.

“Mr. Walsh: Your name is E. C. Powell?

“A. Yes, sir.

“Q. Where do you live, Mr. Powell?

“A. I lived here about a year and a half.

“Q. I see. Are you married?

“A. Yes, sir.

“Q. Where is your family?

“A. Down in San Bernardino.

“Q. Of what does your family consist?

“A. Wife and two children.

“Q. How old are the children?

“A. Five and three.

“Q. I see. When did you go to San Bernardino from Corcoran?

“A. I went to San Bernardino from Los Angeles.

“Q. Well, when did you leave Corcoran?

“A. About six or eight weeks ago, or possibly two months. About six or eight weeks ago, I'd say, something in that [677] neighborhood.

“Q. Now, you know what the charge is?

(Testimony of Evan C. Powell.)

“A. Yes, sir.

“Q. You received a copy of the complaint?

“A. Yes, sir.

“Q. You know of Mr. Carden—you have heard his testimony, that on the 17th of January of this year you did cash a \$15.00 check on the Farmers and Merchants Bank of Summerville, Georgia?

“A. Yes, sir.

“Q. And that he gave you three five-dollar bills for that check? Now, is there anything about that transaction or concerning this check that you want to tell us?

“A. I just would like to make a statement.

“Q. All right, go ahead, make a statement in your own words.

“A. I gave the checks with no intention of beating them, but intended to make them good as I have made others, and I had no intention of beating them. When I could find employment to make them good I intended to do it, and I hadn't been hid out or anything. I was under my same name and have given references here of employment of various nature.

“Q. Now, let me ask you: When you gave this check you knew that you didn't have the money in that bank, didn't you? [678]

“A. I figured on making the checks good.

“Q. That isn't what I mean. At the time you gave the check, you knew you didn't have the money in that bank but you intended—

(Testimony of Evan C. Powell.)

“A. To meet it.

“Q. —to go out and get some money and take it up. Is that right?

“A. I intended to meet it there from money that was owed me and promised me.

“Q. Where was this money owed to you?

“A. Back in the East, in Georgia.

“Q. I see. But it wasn't in the bank at that time——
A. No, sir.

“Q. Did you actually have an account back there or wasn't there just—or, didn't you have an account at all?

“A. No, I didn't have any account at the time.

“Q. The same thing is true of that sixty dollar check that Mr. Hammond put his name on?

“A. His name, you say?

“Q. I say, is that true of the sixty dollar check, too, that was cashed by Mr. Carden on account of Mr. Hammond's——

“A. Yes, sir, Mr. Hammond endorsed it.

“Q. ——indorsing it. Have you got any other checks at this time outstanding, do you know?
A. No, sir, none. [679]

“Q. None? A. None.

“Q. Have you ever had a checking account at the local bank here in Concoran?

“A. No, sir.

“Mr. Walch: That's all. Anything else you want to say?
A. No.

(Testimony of Evan C. Powell.)

“The Court: No other statements you would like to give on your behalf? A. No, sir.

“Q. And you have no witnesses at this time to testify, have you? A. No, sir.

“The Court: Anything further, Mr. Walch?

“Mr. Walch: That’s all. I ask that he be held to answer. I’m not going to introduce the check at this time, your Honor.

“The Court: It is the order of the court that the defendant be held to answer to the Superior Court.” [680]

Now, may I ask you whether or not on the occasion just referred to, the questions which I have just read to you were put to you by District Attorney Walch, and whether you made the answers which I likewise have just read to you?

A. I don’t recall any questions. I don’t recall any answers.

Trial Examiner Lindsay: May I ask one or two questions right here to keep it in order?

Mr. Clark: Yes.

Trial Examiner Lindsay: Did the prosecuting attorney or the Justice of the Peace—is that what you call him?

Mr. Clark: The District Attorney.

Trial Examiner Lindsay: Well, I understand that.

Mr. Clark: It is the Municipal Court—what is it here?

(Testimony of Evan C. Powell.)

Mr. Wingrove: City Police Judge.

Mr. Clark: City Police Judge in this County.

Trial Examiner Lindsay: Did the prosecuting attorney or the City Police Judge, if you remember, that morning tell you that you were entitled to have an attorney if you so desired, in that proceeding?

The Witness: Well, he might possibly have. I don't recall.

Trial Examiner Lindsay: Did anybody explain your rights to you at that time, at that hearing?

The Witness: I am aware that those things are provided [681] in those cases, but I don't recall whether it was mentioned that morning or not.

Trial Examiner Lindsay: You didn't have any attorney there representing you?

The Witness: No.

Trial Examiner Lindsay: Well, was that hearing held the same morning that they brought you over?

The Witness: No. I arrived here at 3:00 or 4:00 o'clock in the morning, something like that.

Trial Examiner Lindsay: You got here at 3:00 or 4:00 o'clock in the morning, and when was the hearing held?

The Witness: The same day.

Trial Examiner Lindsay: The same morning?

The Witness: The same day.

Trial Examiner Lindsay: The same day.

May I see that transcript?

Mr. Clark: May I, in connection with this, first, Mr. Examiner, read into the record, after showing

(Testimony of Evan C. Powell.)

it to the witness if he so desires, pertinent parts in response to your Honor's last questions, and then I will hand the transcript to you?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark) I will ask you, Mr. Witness, whether or not on the occasion just referred to the following statements were made to you by the Honorable W. I. Nonhof, Judge of the City Court of Hanford— [682]

Mr. Wingrove (Interrupting): Of Corcoran.

Trial Examiner Lindsay: Which is it?

Mr. Clark: Just a minute.

(Conference between counsel.)

Mr. Clark: Yes, Judge of the City Court of Corcoran, reading as follows:

“The Court: You are ready to proceed, are you?”

“The Defendant: Yes, sir.

“The Court: I will read this complaint to you.”

Then follows the complaint on file, which I don't think it is necessary to read into the record, but which I will, if your Honor thinks it is necessary. I will submit it to you. It is the accusation—

Trial Examiner Lindsay (Interrupting): I don't care anything about that. I know what it is.

Mr. Clark: It is concerning the check.

Then, after the complaint is read, I will ask you whether these statements were made to you by the Judge:

(Testimony of Evan C. Powell.)

“I will inform you of your legal rights. You are entitled to a speedy and public trial; to be represented by counsel at all stages of the proceedings, to produce witnesses on your behalf, and to be confronted with the witnesses against you in the presence of the Court. You are entitled to bail and to a preliminary examination. You cannot plead in this court unless you are accompanied by your attorney. If, however, you [683] are accompanied by your attorney, you may, with the consent of the District Attorney and the magistrate, plead guilty to the charge at this time.

“Unless you plead guilty to the charge in this court, it will be necessary for you to have your preliminary examination in this court, and if the Court finds that a public offense has been committed and there is sufficient cause to believe you guilty thereof, you will be held to answer in the Superior Court. [This Court cannot appoint an attorney to represent you. In the Superior Court, if you desire the services of an attorney, and are unable to employ one, the Court will appoint an attorney to represent you.

“The defendant stated that he was ready to proceed with the case, so we proceeded with it.

“Mr. Walch: All right. You are ready to go right ahead with the preliminary examination, are you, Mr. Powell? Is that the name?

“Defendant Powell: Yes.

(Testimony of Evan C. Powell.)

“Mr. Walsh: You understand from what the Court has told you what a preliminary examination is?”

“The Defendant: Yes.”

“Mr. Walsh: It is a procedure that has to be followed. You are ready to proceed with that now, is that right?”

“The Defendant: Yes, sir.”

“Mr. Walsh: Call Mr. B. H. Carden.” [684]

Now, were those statements made to you by the Judge at the hearing just referred to?

A. Could have been. I don't recall them.

Q. And were the questions asked of you by District Attorney Walsh, which I have just read to you, asked at the hearing just referred to?

A. Could have been. I don't recall.

Mr. Clark: Yes.

There is one further question I would like to ask in this connection, and it is this:

Q. I am correct in stating, am I not, Mr. Powell, that the game that you were playing, that is, the gambling game you referred to, was draw poker at \$1.00 limit? A. It was not.

Q. What was it?

Mr. Mouritsen: Objected to as immaterial. . .

Mr. Clark: It is absolutely material. I will explain it in just a minute, your Honor.

The Court: Go ahead.

Q. (By Mr. Clark) What was it?

(Testimony of Evan C. Powell.)

A. Well, they had two types of poker in the past in that particular establishment.

Q. I want to know what this game was that you were playing?

A. I will bring you up to that if you will let me.

Q. May I have the answer? [685]

A. What is your question?

Mr. Clark: May I have the question read?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

The Witness: That was a \$5.00 take-out in this particular game. At that time they was running a similar game known as joker poker that you did, that you could, as I recall it, take out a one dollar take, but this particular game, as I recall, was a \$5.00 California draw, known as California Draw, straights and flushes before the draw.

Q. (By Mr. Clark) All right.

It was called California draw, isn't that it, the name of the game?

A. I think that was the name of the game.

Q. Am I not correct in stating that the limit of any given bet, no matter when made in betting a particular hand, was \$1.00?

A. No, it was the sky.

Q. Unlimited, you say?

A. All the chips you had in front of you, you could call, all those chips.

Q. Very well.

(Testimony of Evan C. Powell.)

You are positive of that, too, are you?

A. Oh, yes. [686]

(Pause.)

Mr. Mouritsen: Is there a question pending?

Mr. Clark: I was waiting for the Examiner.

Trial Examiner Lindsay: I haven't anything.

Mr. Clark: I thought you wanted to examine that?

Trial Examiner Lindsay: I can listen to you and examine it too.

Mr. Clark: Very well. All right.

Q. Had you ever been convicted of a felony in this State, particularly in the County of Los Angeles, prior to this occasion in February of '38?

A. This check?

Q. Not a check. Any felony?

Mr. Mouritsen: I think the witness indicates from his answer that he doesn't understand.

Mr. Clark: I will reframe it.

Q. Will you please state, Mr. Powell, whether or not you have ever been convicted of a felony in the State of California, and I refer particularly to the City and County of Los Angeles, prior to the check episode?

A. Then, as I understand, if I were convicted in Los Angeles?

Q. Or anywhere else in this State?

A. Not in Los Angeles or anywhere else in this State.

Q. Never have, on any prior occasion, been convicted of a felony, is that correct? [687]

(Testimony of Evan C. Powell.)

A. In this State.

Q. In this State? A. No.

Q. All right.

Now, how about any other State?

A. I never have any record, anything on record where I was convicted.

Q. Well, were you convicted? Please state whether you were convicted or not?

A. Well, I was tried for murder one time—

Q. (Interrupting) I don't care about that.

Mr. Mouritsen: I move that the answer go out as not responsive to the question, your Honor.

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark) Have you ever been convicted of a felony? A. Yes.

Q. In any State except this check?

A. Yes.

Q. All right. When was that?

A. Seven or eight or ten years ago.

Q. And where? A. Georgia.

Q. Did you serve time in the Penitentiary there for it? A. I did not.

Q. Were you given probation? [688]

A. Did not; unconditional pardon.

Q. And how soon after your conviction was it that you were pardoned?

A. Just a week or so.

Q. I see.

Now, were you ever convicted of a felony in any State of the Union on any other occasion than those you have testified to? A. Never.

(Testimony of Evan C. Powell.)

Q. You are positive of that? A. Positive.

Q. And you have never been convicted of a felony in the Superior Court for the County of Los Angeles? A. Never.

Q. In the State of California? A. Never.

Q. All right.

Now, you will notice that in the preliminary examination in connection with the check charge, which I directed your attention to, you are asked the question as to whether or not you had any children, and I think you answered two children?

A. In this preliminary?

Q. Yes. Do you remember that?

A. Could have been. I don't recall it.

Q. As a matter of fact, you have more children than that, [689] haven't you?

A. I have one other by a former marriage.

Q. And is he living, or is that child living in this State? A. He is.

Q. And is your former wife living in this State?

A. She is.

Q. Did you obtain a divorce? A. No.

Trial Examiner Lindsay: Let us not go into personal——

Mr. Clark (Interrupting): I think this also bears on the man's credibility, your Honor. After all, it is his word against Gordon Hammond's.

Trial Examiner Lindsay: I am not questioning that, at all. I do not want to go into the other family affair.

(Testimony of Evan C. Powell.)

Q. (By Mr. Clark) Now, going back a moment to the start of the year 1938, that is January, 1938, I am correct in stating, am I not, that you had ceased work at Boswell's prior to the time you got into this trouble about the check? That is true, isn't it?

A. I had ceased work?

Q. At Boswell's, before you got in trouble about the check? A. Oh, yes.

Q. Yes.

And you were not working at Boswell's when you came by Mr. Hammond's house and got him to endorse the \$60.00 check? [690]

A. I was not.

Q. All right.

And you told us he did endorse it, is that true?

A. Did what?

Q. You told us that he endorsed it?

Trial Examiner Lindsay: We have gone over that.

Mr. Clark: Yes, that is in the record. All right.

Q. Now, Mr. Gordon Hammond never prosecuted you on that, did he? A. Never.

Q. All right.

Isn't it a fact that during the time you were in the County Jail in the Spring of 1938, Mr. Gordon Hammond advanced money to your wife and two children for their support?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

(Testimony of Evan C. Powell.)

Mr. Clark: Well, it bears upon the obligation. He testified to an obligation on his direct examination. He testified to being obligated financially.

Mr. Mouritsen: I believe I recall that testimony. Withdraw the objection.

Trial Examiner Lindsay: Yes. He may answer.

The Witness: That was my understanding. However, since that time I have been informed—as to whether it was rumor or not, I don't know—that that money was taken up among the [691] employees and sent. I don't believe that to be true. I think Mr. Hammond sent direct \$25.00, if I remember correctly, to my wife in San Bernardino.

Mr. Clark: All right.

Q. Now, have you ever repaid any of that money? A. I have not.

Q. You never had? A. No.

Q. I think you stated you repaid only the \$60.00 check to him? A. I did.

Q. Didn't he on another occasion, after you got out of jail, lend you some money personally?

A. He did not.

Q. Now, after you left Boswell's, that is the plant, on the morning of November 18th of 1938, as I understand it you never went back again, is that true, so far as doing any work is concerned?

A. No.

Q. Did you go back to pick up some checks, some further pay checks?

A. I received possibly two checks after that. [692]

(Testimony of Evan C. Powell.)

Q. Well, I will direct your attention to your sheet in Board's Exhibit No. 3 again and particularly, Mr. Powell, to the entries, November 17, 1938, \$28.70; November 24, 1938, \$21.35; and December 1st, 1938, of \$7.00.

A. I received a check November 10, 1938, for \$28.82.

Q. \$29.40 for November 10th?

A. That is the original check, unemployment and social security taken out of that, gives you a balance of \$28.82.

Q. Now, let us have your next check, and the date. Just read your next check and the date that you have there.

A. Here is November 24th.

Q. Is there one for the 17th?

A. I don't have that check.

Q. Do you remember whether or not you received a check for the week ending November 17th?

A. I received my check that was coming due that week for wages for that week, and then I received another check for one complete week that I didn't work, and a balance of \$7.00—\$6.86.

Q. Now, let me see if we can't paraphrase it so we can get at it.

I am correct in stating, am I not, that for the week ending November 17, 1938, you received \$28.70 minus whatever deductions there were for social security? A. \$28.82. [693]

Q. Now, for the week ending November 17th—

(Testimony of Evan C. Powell.)

A. (Interrupting) I don't have that check.

Q. You received a check for that week?

A. I might have.

Q. Didn't you?

A. Well, I could have. I don't recall that. I might have.

Q. All right.

Then you received a further check at a later date for the week ending November 24, 1938, isn't that right?

A. Yes. Here it is. (Indicating)

Q. All right. You have the stub for that?

A. Yes.

Q. And then you received a further check in the sum of \$7.00 for the week ending December 1, 1938, is that not right? A. Yes.

Q. You are showing me the stub for that, isn't that right? A. Yes.

Mr. Mouritsen: It is understood, Mr. Counsel, is it not, that any apparent discrepancies are due to deductions for unemployment and social security?

Mr. Clark: Surely.

Q. Now, you never applied to Boswell's for any employment after the time you received the December 1st check for \$7.00, [694] isn't that so?

A. Never applied for work; no.

Q. All right.

But at the time subsequently, Mr. Powell, to December 1st, you did have a conversation with Mr. Gordon Hammond, didn't you, regarding further workman's compensation payments?

(Testimony of Evan C. Powell.)

A. What date was that?

Q. After December 1st of 1938? A. Yes.

Q. And will you please fix the time of that as nearly as you can?

A. You fixed it after December 1st, somewhere about that time.

Q. Was it in January of this year?

A. Could have been; might have been.

Q. Didn't you ask Mr. Gordon Hammond on that occasion to recommend you for an operation on your finger by the physicians for the insurance company carrying the Boswell Company workman's compensation insurance?

Mr. Mouritsen: I object to that upon the ground it is utterly immaterial and has no bearing on the issues of the case.

Mr. Clark: It is preliminary, your Honor. I am not going to state my purpose. I have gotten into trouble for [695] doing that.

Trial Examiner Lindsay: No, you haven't gotten into trouble for doing that.

Read the question.

Mr. Clark: I want to show further workmen's compensation payments picking up just at that time. Of course, they are by the insurance carrier for the company and they indicate that it warranted a disability, and these are made on the basis of permanent disability.

Trial Examiner Lindsay: He may answer.

Mr. Clark: Now may I have the question read back?

(Testimony of Evan C. Powell.)

Trial Examiner Lindsay: Read the question.

(The pending question was read by the reporter, as set forth above.)

The Witness: I did.

Mr. Clark: Yes.

Q. Now, can you be a little more specific for us, Mr. Powell, so far as the time of that conversation of Mr. Hammond is concerned?

A. I don't recall exactly the time I made that request.

Q. I see.

Now, pursuant to that conversation, or following it, did you go to San Francisco and have an operation on your finger? A. I did.

Q. And what was done to your finger? [696]

A. The left index finger amputated.

Q. I see.

And as a result of that, did you receive any rating by the Industrial Accident Commission of this State? A. I did.

Q. So far as your ability to perform work is concerned? A. I did.

Q. And what was that?

A. 63 weeks at \$18.15 a week, equivalent to that much.

Q. And weren't you rated, or weren't you paid at the rate of a permanent disability?

A. Yes.

Q. You were given a permanent disability rating, weren't you? A. Yes.

(Testimony of Evan C. Powell.)

Q. And when did you receive—withdraw that. Tell us approximately how much that insurance payment amounted to. You have told us the number of weeks, first.

Trial Examiner Lindsay: That is a matter of calculation. You can easily get that.

Q. (By Mr. Clark) What was it again, so that I can just be sure you are correct on the figures?

Trial Examiner Lindsay: How much a week?

The Witness: \$18.15.

Trial Examiner Lindsay: For how many weeks? [697]

The Witness: 63 weeks.

Trial Examiner Lindsay: 63.

The Witness: Current after 8 days after injury.

Trial Examiner Lindsay: All right.

Q. (By Mr. Clark) You have received that payment, haven't you? A. Yes.

Q. All in a lump sum?

A. I did—well——

Q. (Interrupting) And how long——

Mr. Mouritsen (Interrupting): Let the witness finish. He indicated there was some explanation.

Mr. Clark: Oh, very well.

Mr. Mouritsen: He should have that right.

The Witness: I received the final payment for a certain amount. However, I had drawn compensation that had been paid me prior to this time which was deducted from the amount set by the Industrial Accident Commission.

(Testimony of Evan C. Powell.)

Mr. Clark: I see.

Q. And when did you receive your final payment?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) And since that time you haven't applied for any further work at the Boswell Company? [698] A. No.

Q. Did you receive any instructions from Mr. Prior on or about November 28 of 1938 with respect to whether you should or should not apply to the Boswell Company for future work? A. No.

Q. Nothing at all was said to you by Mr. Prior in that connection, is that true? A. Nothing.

Q. What? A. None.

Q. All right.

When was it that you first heard that any of the employees at the Boswell Company had joined or were about to join an American Federation of Labor union? A. Early in November, '38.

Q. Of '38?

A. Latter part of September or first part of November, somewhere in there.

Q. I see.

You have told us that you had been out of the plant since September 27th, is that right?

Mr. Mouritsen: I object to the question. What year were you talking about?

Mr. Clark: '38.

(Testimony of Evan C. Powell.)

The Witness: Read me that question. [699]

(The record referred to was read by the reporter, as set forth above.)

The Witness: I hadn't been out of the plant?

Q. (By Mr. Clark) That you had been out of the plant, you hadn't worked since September 27th.

Mr. Mouritsen: I object to that.

Trial Examiner Lindsay: His testimony is, as I understand it, that he went back and did some odd jobs after that. I think you brought that out here on cross examination.

Q. (By Mr. Clark) Well, how long had you been working at the Boswell plant on the occasion when you first heard about the union?

A. Since July 3rd, on or about July 3rd.

Q. Well, do I understand then that you had worked continuously at the Boswell plant from July 3rd, 1938, up until November 1st?

A. Almost. I don't think I missed a day; not more than one day out of that time, I don't believe.

Mr. Clark: Very well.

Trial Examiner Lindsay: Was it November 1 or November 18?

Mr. Clark: November 1st I am talking about.

Q. I am correct in stating, am I not, that it was about November 1st when you first heard anything about the union?

A. No. I heard about it; first applications I heard were [700] then made.

(Testimony of Evan C. Powell.)

Q. Well, the thing I want to know, Mr. Powell, is when you first heard anything about any of the Boswell employees joining an American Federation of Labor union.

A. That was about that time.

Q. That is about November 1st, was it?

A. Yes.

Q. Do I understand that you worked continuously except for a day or so at the plant from July 3rd on up until November 1st?

A. Almost. I might have been off a day or something like that.

Q. It was on about November 1st that you suffered this injury, wasn't it?

A. No, a different year.

Q. I am talking about 1938.

A. '37 I was injured.

Q. You are right. I am mixed up. All right.

Now, it was about November 1st that you first heard that the union had actually received applications, is that true?

A. Somewhere about November 1st, '38.

Q. '38. We are talking about 1938.

Trial Examiner Lindsay: We will stop now taking testimony. I have just one or two things I want to talk about and we will reconvene at 1:00 o'clock. It is just a few minutes of 12:00.

Mr. Clark: Yes, your Honor. [701]

Trial Examiner Lindsay: Off the record.

(Discussion outside the record.)

Trial Examiner Lindsay: On the record.

(Here follows the testimony of the witnesses B. H. Carden and E. C. Powell in the preliminary examination in the matter of the People of the State of California, plaintiff, versus E. C. Powell, defendant, before the Honorable W. I. Nonhof, Judge of the City Court, Corcoran, California, on February 18, 1938, the same being at the direction of Trial Examiner Lindsay:)

B. H. CARDEN

called, sworn and examined as a witness, testified as follows:

Direct Examination

Q. (By Mr. Walch) Your name is B. H. Carden? A. Yes, sir.

Q. And you live here in Corcoran?

A. Yes, sir, I do.

Q. You are engaged in business in the City of Corcoran? A. I am.

Q. And that business consists of a lunch room?

A. Yes, sir.

Q. And at that same place you sell liquors and smoking paraphernalia, and so on?

A. Bar room. [702]

Q. Are you acquainted with the defendant in this action, E. C. Powell? A. I am.

(Testimony of B. H. Carden.)

Q. How long have you known him?

A. Oh, perhaps a year or a little longer.

Q. He trades with you, does he, in your place of business?

A. Yes, sir.

Q. Has he traded with you for some time?

A. Yes, ever since we owned the business, first of July.

Q. And have you ever received any checks from this man prior to the one here in question?

A. I have.

Q. And had no trouble with them?

A. Well, he always come and took them up the next day or a day or two after. I don't think he had any account. He always came and took the checks up. I never cashed one.

Q. You never have sent any back for presentation?

A. Well, from the bank here, he has.

Q. Oh, he has given you checks on the local bank of Corcoran?

A. Yes, and would come in the next day and take them up with cash.

Q. I see. Now, I will show you what purports to be a check which reads as follows: "Somerville, Georgia," Georgia being abbreviated, "January 17, 1938. Farmers and [703] Merchants Bank. Pay to B. H. Carden or bearer, \$15.00." Down in the left-hand corner: "Counter check" marked out and in its place put "Farmers and Merchants Bank," abbreviated, "Summerville, Georgia," Georgia abbreviated. Signed "E. C. Powell," and ask you if you

(Testimony of B. H. Carden.)

recognize that instrument. (Handing check to the witness.)

A. Yes, sir, I cashed that.

Q. On the 17th day of January?

A. On or about that time, I think.

Q. Now, this has " '28." Should that be " '38," or——

A. Why, it should be '38, yes. I never noticed it being that.

Q. Was this check made out and delivered to you by the defendant, E. C. Powell?

A. Made it out right on the bar and where I cashed it.

Q. At your place of business?

A. At my place of business.

Q. And what did you give him for it?

A. \$15.00.

Q. In cash? A. Three five dollar bills.

Q. I see. You don't know, I presume, what he used this money for? A. I think I do.

Q. What? [704] A. Playing poker.

Q. He went back and played poker. In your place of business? A. Uh huh.

Q. At the time he cashed it he hadn't lost that in a game, had he? A. How's that?

Q. At the time he cashed this check he hadn't lost this money in a game there, had he?

A. I couldn't tell you. He came up and asked me to cash another check. I had cashed one for sixty. A few days before that he brought it in there, made

(Testimony of B. H. Carden.)

out on the same bank, with Mr. Hammond's signature on it, and he asked me if I would cash it with his signature and I told him I would, we looked at it and recognized this signature so I cashed it.

Q. What happened to that?

A. I came back and Mr. Hammond made it good.

Q. I see. Now, this \$15 check——

A. It came back a few days later.

Q. I see. It was sent in for collection, came back?

A. It came back, and while it was gone in for collection Mr. Powell disappeared.

Q. You mean from the City of Corcoran?

A. From the City of Corcoran.

Q. And do you know where or how he was located? [705]

A. I do not. I know I heard where but I don't know how.

Q. I see. Have you had any conversation with Mr. Powell concerning this check? A. I did.

Q. What was that?

A. Well, I cashed that \$15 check and he went back in the card room and I told my son and the bartender, "If he comes up for any more personal checks to be cashed, don't cash any more because I think that one will come back." I says, "I cashed it on the strength of Hammond endorsing the \$60.00 one and he being from the same country, but I think it will come back." So it wasn't but a little while he came back and wanted me to cash another check and I said, "No, I have told the boys, we won't cash

(Testimony of B. H. Carden.)

another personal check for you." I says, "We'll wait and see what these we have already cashed do."

Q. Now, at the time he gave you this check did he say to hold it?

A. No, he said it was good. He said that check Hammond endorsed was good or he wouldn't have endorsed it, and this one is all right, so I cashed it. Then I made up my mind I wouldn't cash any more and I didn't.

Q. Have you talked with him any more since then?

A. I have not, not about checks. He was in a few times after that. [706]

Q. I see. Now, this check was given to you, delivered to you in your place of business in the City of Corcoran? A. It was.

Q. In the County of Kings, State of California?

A. It was.

Mr. Walch: I think that's all. Do you wish to ask him any questions?

The Defendant: No, sir.

E. C. POWELL

called, sworn and examined as a witness, testified as follows:

Direct Examination

Q. (By Mr. Walch) Your name is E. C. Powell?

A. Yes, sir.

Q. Where do you live, Mr. Powell?

(Testimony of E. C. Powell.)

A. I lived here about a year and a half.

Q. I see. Are you married? A. Yes, sir.

Q. Where is your family?

A. Down in San Bernardino.

Q. Of what does your family consist?

A. Wife and two children.

Q. How old are the children?

A. Five and three. [707]

Q. I see. When did you go to San Bernardino from Corcoran?

A. I went to San Bernardino from Los Angeles.

Q. Well, when did you leave Corcoran?

A. About six or eight weeks ago, or possibly two months. About six or eight weeks ago, I'd say, something in that neighborhood.

Q. Now, you know what the charge is?

A. Yes, sir.

Q. You received a copy of the complaint?

A. Yes, sir.

Q. You know Mr. Carden—you have heard his testimony, that on the 17th day of January of this year you did cash a \$15.00 check on the Farmers and Merchants Bank of Summerville, Georgia?

A. Yes, sir.

Q. And that he gave you three five-dollar bills for that check? Now, is there anything about that transaction or concerning this check that you want to tell us?

A. I just would like to make a statement.

(Testimony of E. C. Powell.)

Q. All right, go ahead, make a statment in your own words.

A. I gave the checks with no intention of beating them, but intended to make them good as I have made others, and I had no intention of beating them. When I could find employment to make them good I intended to do it, and I hadn't [708] been hid out or anything. I was under my same name and have given references here of employment of various nature.

Q. Now, let me ask you: When you gave this check you knew that you didn't have the money in that bank, didn't you?

A. I figured on making the checks good.

Q. That isn't what I mean. At the time you gave the check, you knew you didn't have the money in that bank but you intended——

A. To meet it.

Q. ——to go out and get some money and take it up. Is that right?

A. I intended to meet it there from money that was owed me and promised me.

Q. Where was this money owed to you?

A. Back in the East, in Georgia.

Q. I see. But it wasn't in the bank at that time——

A. No, sir.

Q. Did you actually have an account back there or wasn't there just—or, didn't you have any account at all?

A. No, I didn't have any account at the time.

(Testimony of E. C. Powell.)

Q. The same thing is true of that sixty dollar check that Mr. Hammond put his name on?

A. His name, you say?

Q. I say, is that true of the sixty dollar check, too, that was cashed by Mr. Carden on account of Mr. Hammond's— [709]

A. Yes, sir, Mr. Hammond endorsed it.

Q. —indorsing it. Have you got any other checks at this time outstanding, do you know?

A. No, sir, none.

Q. None? A. None.

Q. Have you ever had a checking account at the local bank here at Corcoran? A. No, sir.

Mr. Walch: That's all. Anything else you want to say? A. No.

The Court: No other statements you would like to give on your behalf? A. No, sir.

Q. And you have no witnesses at this time to testify, have you? A. No, sir.

The Court: Anything further, Mr. Walch?

Mr. Walch: That's all. I ask that he be held to answer. I'm not going to introduce the check at this time, your Honor.

The Court: It is the order of the court that the defendant be held to answer to the Superior Court. [710]

(Whereupon, at 12:00 o'clock noon, a recess was taken until 1:00 o'clock p.m., of the same date.) [711]

After Recess

(Whereupon, the proceedings were resumed, pursuant to recess, at 1:00 o'clock p. m.)

Trial Examiner Lindsay: The hearing is called to order.

Mr. Clark: The respondents are ready.

Mr. Mouritsen: Ready of the Board.

Mr. Clark: May I proceed?

Trial Examiner Lindsay: Yes.

Mr. Mouritsen: May I have a moment?

Mr. Examiner, the original of the Local's charter in this instance was introduced as Board's Exhibit 4. Could the Board at this time have a photostatic copy made of the charter and substitute a photostatic copy in lieu of the original charter which the union desires to retain?

Mr. Clark: It would be perfectly satisfactory to me, your Honor, if the reporter would copy the contents of the charter into the record in something near the order it is in.

Trial Examiner Lindsay: No. I would rather have every exhibit substituted be an exact copy, and that privilege will be granted to all counsel in this hearing.

Mr. Clark: It is perfectly satisfactory to us that a photostatic copy be substituted.

Mr. Mouritsen: Very well. Thank you.

Trial Examiner Lindsay: I realize that many exhibits are [712] of such nature that the original must be returned to the owners, and, of course, that is always permitted.

Mr. Clark: May I just have a minute, Mr. Examiner?

Trial Examiner Lindsay: Yes.

EVAN C. POWELL

the witness on the stand at the time of recess, having been previously duly sworn, resumed the stand and further testified as follows:

Cross-Examination

(Continued)

Q. (By Mr. Clark): Mr. Powell, hadn't you heard of this union, and by that I refer to the local union in this proceeding, prior to the 1st of November, 1938?

A. I heard that there had been some attempts to organize before that.

Q. How early in 1938 did you hear that there had been an attempt to organize this union?

A. I heard that there had been a meeting in this hall for the purpose of explaining something along that line by Mr. Prior, the organizer.

Q. Are you referring to the meeting of July 13th?

A. I am referring——

Q. (Interrupting): Held in this hall, the American Legion Hall, in Corcoran?

A. I am referring to a meeting held in this hall, and to the best of my knowing, that was held in this hall. [713]

Q. Was that the meeting of July 13, 1938?

A. I couldn't say when that meeting was.

Q. Were you present at that meeting?

(Testimony of E. C. Powell.)

A. No, I wasn't.

Q. Did you receive an invitation to attend that meeting? A. I did.

Q. Now, after that meeting was held, did you learn whether or not any of the Boswell employees had joined the union?

A. Some time after that, along about the first of November, 1938.

Q. Well, didn't you hear that shortly after September 2nd, 1938?

A. No, I do not recall that I did.

Q. Shortly after September 2nd, 1938 didn't Mr. Farr approach you with an application to join the union? A. No, sir.

Q. Well, will you please tell us whether or not anyone approached you with an application to join the union shortly after September 2nd, 1938?

A. No, sir.

Q. Didn't you learn shortly after September 2nd, 1938, that Mr. Farr and Mr. Martin and Mr. Wingo had joined this union? A. No, sir.

Q. Did you hear anything at all about having—withdraw that. [714]

Had you discussed the matter of your joining this union with Mr. Prior at any time before November 1st, 1938? A. No, sir.

Q. When was the first time you met Mr. Prior?

A. On the night of November 16th, I believe, was the first time I ever met Mr. Prior personally.

Q. Didn't I understand you to testify in your

(Testimony of E. C. Powell.)

direct examination that you attended the installation meeting held on November 5th? A. No, sir.

Q. Well, didn't you testify that you have been present at the gathering of union men on the night of November 5th immediately before the business session started? A. No, sir.

Q. Are you positive of that? A. No, sir.

Q. Are you positive or are you not positive of that?

A. Well, if I get your question clearly, I did not attend any meetings prior to the night of just before I was initiated into the union.

Q. Do I understand, then, that you didn't attend any meetings until just before—well, until November 16th?

A. No, I had attended, as I recall, one meeting before that.

Q. And when was that? [715]

A. Just a short time before that.

Q. How long before?

A. Possibly a day, maybe two.

Q. I see.

So that you are quite sure that you hadn't attended any meetings of the union or any gatherings of union men just prior to a business meeting at any time prior to November 14th, we will say?

A. No, I had not.

Q. Now, you are positive of that, are you?

A. Positive.

Q. Didn't you know prior to November 1st that

(Testimony of E. C. Powell.)

Mr. Farr and Mr. Martin and Mr. Wingo were all members of this union?

A. I did not know. It was rumored.

Q. You had heard that rumor, hadn't you?

A. Yes.

Q. Do you remember who you heard that rumor from? A. I do not.

Q. Can you tell us how long before November 1st of 1938 it was that you heard that rumor?

A. Along about the 1st, around the 1st of November I heard that all the Mexicans that were employed on the night shift at that time had become members. That was hearsay, not knowing.

Q. I understand that. I am only asking for the approximate [716] time when you first heard that any of the employees at Boswell's had joined this union.

A. Along about the 1st of November.

Q. And not before that, is that true?

A. Not before.

Q. How about Mr. Farr and Mr. Martin? Had you heard that they had joined this union?

A. I had heard that they——

Q. (Interrupting): Prior to November 1st?

A. I had heard it rumored they were trying to organize for some time, but I don't know what period it was.

Q. That is exactly what I am interested in.

For what period of time prior to November 1st of 1938 had you heard it rumored that Mr. Farr and

(Testimony of E. C. Powell.)

Mr. Martin were attempting to organize this union?

Mr. Mouritsen: Objected to as calling for the rankest kind of hearsay, rumors. It is not substantial evidence on which a hearing of this kind can make a finding.

Mr. Clark: May I make a statement?

Trial Examiner Lindsay: It isn't necessary. You may answer.

The Witness: I heard various rumors. I don't know from what source, along about November 1st, around the latter part of September or about the first of November, that they were trying to organize here. [717]

Q. (By Mr. Clark): All right.

Were those rumors popular knowledge among the employees of the plant? A. Some of them.

Q. Well, I am thinking specifically about the rumor you called our attention to concerning Mr. Farr and Mr. Martin attempting to organize this union.

A. It was between Mr. Hammond and I.

Mr. Clark: I didn't hear.

Trial Examiner Lindsay: "It was between Mr. Hammond and I." Is that right?

The Witness: That is right.

Q. (By Mr. Clark): Did you hear that rumor from anyone else aside from Mr. Gordon Hammond?

A. Not exactly. Indirectly, I think I did.

Q. Do you remember how you heard it indirectly?

A. No, I don't.

(Testimony of E. C. Powell.)

Q. Was it from some other employe in the place?

A. It was.

Q. I see.

Now, you had known, hadn't you, or you had heard ever since July 13th, approximately, of 1938, that Mr. Prior was up here trying to organize the union?

A. I believe I heard something to that effect.

Q. Yes. [718]

Now, had you also heard, Mr. Powell, during the same period of time that you have told us you heard about the Farr-Martin rumor that Mr. Spear was connected with the union?

A. I heard of that, too.

Q. Yes.

When do you think was the first time you heard about that?

A. I don't recall the first time that I heard about it.

Q. Fix it as nearly as you can, please.

A. Well, I can testify the first time to my knowing.

Q. I don't care about your knowledge. I want to know when you heard this popular gossip or rumor in the plant that these men were attempting to organize this union.

Mr. Mouritsen: I object to counsel's statement of the classification of any rumor, because there has been no foundation laid. There is no showing as to the kind of rumor or the extent, or anything. I object to the question on the ground it is too vague and indefinite.

(Testimony of E. C. Powell.)

Mr. Clark: May I make a statement?

Trial Examiner Lindsay: I think the word "popular" should be out of the question.

Mr. Clark: Very well. I will eliminate that from the question. And may I have that question read back with that word eliminated from it?

Trial Examiner Lindsay: Yes. Read the question. [719]

(The question referred to was read by the reporter, as set forth above.)

The Witness: I think I—what was the question?

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I think the word "first" should be in your question.

Mr. Clark: Very well. I will accept your amendment, Mr. Examiner.

The Witness: That was some time before November 18th, that I heard that.

Q. (By Mr. Clark): How long?

A. Approximately a month, or two months.

Q. Two months?

A. Maybe three, some time before.

Mr. Mouritsen: Now—

Mr. Clark (Interrupting): Just a minute, please.

Mr. Mouritsen: Here—in your question, Mr. Counsel, you stated November 1st, and I believe the witness stated November 18 in his answer.

Mr. Clark: That is all right, but I took November

(Testimony of E. C. Powell.)

18 and asked him how long before November 18th; and I think your answer was it may have been a month or two months, possibly three months, before November 18th—is that right?

The Witness: There was—correction. [720]

I am not stating that I heard any certain ones had. I stated I heard they were trying to organize.

Q. (By Mr. Clark): That is what I am after. That was with respect to Messrs. Farr, Martin, and Spear, isn't that so? A. No, sir.

Q. Who?

A. There had been an organizer here and held a meeting in this hall, and there was some endeavor to organize the J. G. Boswell Company plant.

Q. All right.

But the thing I am concerned with is when was the first time, as nearly as you can fix it now, that you heard about either Mr. Farr or Mr. Martin or Mr. Spear as attempting to organize the union?

A. Some time about the 1st of November.

Q. Was that the earliest time?

A. That was the earliest of those named, yes.

Q. You are positive of that?

A. I am positive.

Q. All right.

Hadn't you heard about a meeting held on October 8, 1938, between Mr. Prior and Mr. Gordon Hammond at which the reinstatement or re-employment of certain union members, namely, Mr. Martin, Mr. Boyd Ely, Mr. Farr, and Mr. George Andrade, was discussed? [721]

(Testimony of E. C. Powell.)

A. I have heard that testimony.

Q. No, no.

Hadn't you heard about that prior to November 1 of 1938?

A. I heard there had been a conversation and a meeting with the management, something concerning that. I wasn't at the meeting.

Q. I understand that.

And you heard that the meeting concerned the men whom I have named, didn't you?

Mr. Mouritsen: Objected to as vague and indefinite.

Trial Examiner Lindsay: He may answer if he knows.

The Witness: I heard something about a meeting that was held in the J. G. Boswell office, yes.

Q. (By Mr. Clark): And concerning these men I have named, to-wit: Mr. Martin, Mr. Boyd Ely, Mr. O. L. Farr, and Mr. George Andrade?

A. Some of those names I recall. I don't recall all of them.

Q. And from whom did you hear about that, please, if you remember?

A. That was discussed in our regular meetings.

Q. Well now, what do you mean, "our regular meetings"?

A. Local meetings.

Q. Well, when did you join this union? [722]

A. On November 16th I was initiated. I had made an application the day before that, approximately a day before.

(Testimony of E. C. Powell.)

Q. I see.

And, as I understand it, the first meeting which you attended was a couple of days prior to November 16th?

A. I was in on the gathering—however, I wasn't in on the meeting, because I had to be dismissed because I wasn't a member—on a meeting prior to November 16th.

Q. And I understand that was some two days prior?

A. It could have been the day before.

Q. Or the day before, is that right?

A. Something like that.

Q. All right.

Now, my question a few moments ago was, when was it that you first heard about the meeting of October 8th between Mr. Prior and Mr. Gordon Hammond concerning the re-employment of certain members of this union, to-wit: Messrs. Martin, Boyd Ely, Farr, and Andrade?

A. After I had become a member.

Q. All right.

You didn't hear about that prior to November 1st, is that right?

A. That is strictly union business. They didn't refer anything in their line to me until after I had become a member.

Mr. Clark: May I have a direct answer to the question? [723]

Trial Examiner Lindsay: The answer may stand.

(Testimony of E. C. Powell.)

I think he has answered it two or three different times.

Proceed.

Mr. Clark: All right. All right.

Q. Now, when was it, please, Mr. Powell, that you first had any conversation with Mr. Gordon Hammond—withdraw that.

Now, when was this conversation with Mr. Gordon Hammond, Mr. Powell, which you testified to on your direct examination and in which you say he asked you for certain information concerning the union? A. In the warehouse.

Q. When was it?

A. Some time about November, the first of November.

Q. Can you fix it any more definitely than that?

A. On or about the 6th, as I recall it, the 6th of November.

Q. The 6th of November.

And will you please—where did that take place, again?

A. In the main warehouse of the plant.

Q. All right.

And this—and in what particular section of the main warehouse?

A. Well, there was some two or three thousand sacks dumped—that had been lined up along the warehouse. We were lean- [724] ing up against some sacks there.

Q. Where was it in the warehouse?

A. Well, if you give me a blueprint of the ware-

(Testimony of E. C. Powell.)

house, I can give you the spot. If you don't understand it, I don't know.

Q. Can you tell us which part of the warehouse it was in?

A. It was in the main part. The main warehouse is only one large room. [725]

Q. In the Northeast corner?

A. Closest to the engine room.

Q. Closest to the engine room? A. Yes.

Q. In what part of the warehouse is the engine room?

A. In the West side of the building, facing this way.

Q. Closest to the Southwest corner of the warehouse, or the Northwest corner?

A. Closest, I should say, to the Southwest.

Q. I see.

So that this conversation you had with Mr. Gordon Hammond about November 6th, 1938, was in the Southwest corner of the main warehouse on the Boswell Company property here in Corcoran, is that true?

A. Well, I can describe it clearer by saying that it was in the first doorway as you enter the main gate, the first doorway in line with the first doorway of the main building after entering the main gate; as you enter the warehouse there are several doors on the side. The first door as you enter in a direct line with that door.

Q. And how far from the door?

(Testimony of E. C. Powell.)

A. Oh, I would say twenty feet.

Q. How close to these stacks of sacks?

A. Leaning on the elbow.

Q. You were leaning on them? [726]

A. Backed up against it like that (indicating).

Q. All right.

Now, there was no one else present, of course?

A. No one but Gordon and myself.

Q. What time of day was this?

A. I don't know whether it was morning or afternoon; sometime during the day.

Q. You don't recall whether it was morning or afternoon?

A. I would say it was in the morning.

Q. Have you any independent recollection on that?

A. Well, nothing more than I was reporting every morning what activities had gained thereon——

Q. (Interrupting): Now, let us have that answer.

Trial Examiner Lindsay: He has answered.

Mr. Clark: I can't hear it.

Trial Examiner Lindsay: Oh. Read it.

The Witness: I had reported on possibly every morning Mr. Hammond happened to come through; he varied in coming through, different hours of the day. Sometimes he would come through early in the morning, and at other times I wouldn't see him possibly before the afternoon.

Q. (By Mr. Clark): Now, what was this you were reporting to Mr. Hammond?

A. What was I reporting to him?

(Testimony of E. C. Powell.)

Q. Yes. [727]

A. Well, negotiations. He had an agreement that I would gain information and let him in on it.

Q. Information about what, please?

A. Union activities, who were in it, who were the leaders, who were the members and what not I could find out about it.

Q. I see.

Now, this was some ten days prior to the time you first attended any Union meeting, wasn't it?

A. Sometime before I attended Union meetings.

Q. Yes.

Now, the thing I am after, Mr. Powell, is the time, is the conversation which I thought I was asking you about, and at which any such arrangement between you and Mr. Gordon Hammond was first made.

When was that?

A. Any arrangement? First arrangements were made?

Q. Yes, for you to report any Union activities?

A. At that time.

Q. You mean at this very conversation?

A. That is right.

Q. That was located for us?

A. At that conversation.

Q. How did you happen to meet Mr. Hammond on that occasion?

A. I met Mr. Hammond every day, the time he would come through, talk about everything in general. [728]

(Testimony of E. C. Powell.)

Q. Well, I am not concerned with everything in general. I am concerned with your spying on this Union only.

A. You asked me how come.

Q. Now, just a minute. When is the first time—withdraw that.

How did you happen to meet Mr. Hammond, Mr. Gordon Hammond, on November 6th or on or about that date at this point in the main warehouse 20 feet from the main door, in a direct line with it, and when you and he were leaning up against these stacks?

A. I was in trucking sacks away from the main supply where it comes through out of the oil mill, the product comes through out of the oil mill, putting it back in the dump in the warehouse.

Q. Yes.

A. And Mr. Hammond came by and started a conversation with me.

Q. All right.

Was your meeting with him at that time pursuant to any prior arrangement between you and him?

A. No prior; no arrangement before that had been made, no.

Q. All right.

So that you hadn't been reporting each day to him about Union activities before this time, had you?

A. We had talked a little about it, but nothing in revealing [729] form; any activity.

Q. All right.

Now, when was the first time you talked a little bit about it?

(Testimony of E. C. Powell.)

A. On this particular occasion, on or about November 6th.

Q. Well, then, is it your testimony that this is the first time that you discussed your spying upon this Union? A. Yes, sir.

Mr. Mouritsen: Objected to, as it has been asked and answered a number of times.

Mr. Clark: I am still unable to get it clear. He has answered it now, apparently.

May I have the question and answer read?

Trial Examiner Lindsay: Yes.

Now, listen. Let us pay attention, please, to the questions and answers. It is an imposition upon a reporter to constantly have questions and answers read and re-read. Now, if we will all pay strict attention, we will get these things. Now, read the question and the answer.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark): With Mr. Hammond?

A. No one else I had discussed it with other than Mr. Hammond.

Q. All right.

Now, will you please tell us what Mr. Hammond said, and [730] what you said on this occasion?

A. Mr. Hammond said, "Coon, I understand the Union is trying to organize here." He said, "It is my opinion that the Company don't want it. They have been getting by a number of years managing

(Testimony of E. C. Powell.)

their own business. It is awful important. To start with, I don't know how you feel about this."

Mr. Clark: May I ask for the last part? I can't hear this witness.

The Witness: He says, "I don't know how you feel about the Union, but I do know as long as you don't have anything to do with it, that you will work here longer, you have a job here as long as you want it."

I said that was—he said, "It would be very important to me if I could get the facts of the activities, learn who is in on this meeting, who the leaders are, and members and prospective members, and in some way might be pressure—"I don't remember whether "pressure" or "scare"—"that could be enforced that might disencourage them." Something to that effect.

Q. Is that substantially all Mr. Hammond said to you on that occasion?

A. No, that is not all.

Q. Let us have it all?

A. I stated to Mr. Hammond—he asked me if I could obtain that information. I told him I thought I could, and he said [731] that if I would obtain that information, it would be mighty valuable to him.

I told him that that was quite a responsible position to do that kind, but that under the obligation that I was under to him, I would endeavor to do what I could.

Q. Now, is that all that he said, Mr. Gordon Hammond said?

(Testimony of E. C. Powell.)

A. He said, "You get in on one of these meetings and report back to me what you can find out."

Q. And what did you say to that?

A. I told him I thought I could, and would if I could.

Q. At that time did Mr. Gordon Hammond tell you that approximately two months before, namely in the last of August, 1938, he had had a discussion about the Union with Mr. Prior?

A. I don't recall him making that statement. He could have made it. I don't recall him making it.

Q. Did Mr. Gordon Hammond tell you on that occasion to which you have just testified that approximately a month before, namely on October 8th, he had had a meeting with Mr. Prior at which Messrs. Martin, Ely, Boyd Ely, Farr and George Andrade were disclosed to him as being Union members?

A. He could have made that statement. I don't recall it that he made it.

Q. Did Mr. Gordon Hammond tell you, as part of that conversation, that he had known for some weeks that Mr. Spear was a member of the Union? [732]

A. I don't recall him making that statement.

Q. Did he mention any of these gentlemen to you during that conversation?

A. I don't recall it that way.

Q. Would you say that he did not mention to you the names of Mr. Martin, Mr. Boyd Ely, Mr.

(Testimony of E. C. Powell.)

Andrade, Mr. Wingo, Mr. Farr and Mr. Spear during this conversation?

A. I would say that he did not make that statement.

Q. That he did not mention any of them, is that right?

A. Yes, due to the fact that he wanted me to gain this information, and I had my own conclusion that he didn't know; if he had known, what would he want me to do that for?

Q. You concluded he didn't know the names of anyone that belonged to that Union, is that right?

A. That was my conclusion, yes.

Q. Yes.

Now, how long was it, then, before you succeeded in getting into a Union meeting?

A. I got into a meeting that was held just prior to November 16th, at Farr's.

Q. Well, as a matter of fact, didn't you testify on your direct examination that the first meeting you attended was the one, the charter meeting, on November 5th?

A. I did not. If I stated that—I don't believe I stated that. If I did, I attended a meeting prior to November 6th— [733] I mean the 16th—and I was in a meeting—the first meeting I was at at Mr. Farr's house was just before November 16th. I do recall.

Q. You are quite positive of that, are you?

A. Positive.

(Testimony of E. C. Powell.)

Mr. Clark: In that connection, Mr. Mouritsen, I am directing the witness's attention to page 590 of the transcript, being part of Mr. Powell's direct examination, commencing at line 1, over to page 592, line 19, and I will ask you please, Mr. Powell, to read your testimony on direct examination from the places I have just indicated, that is, page 590 line 1, over to page 592, line 19, so you may get it in mind.

The Witness: (Examining document): Here is a misunderstanding here, about this, "May." I couldn't have said that; I was in stir in May.

Mr. Clark: Let the record show that the witness is indicating the word "May" on line 18 on page 589 of the transcript, which is not the part I am directing his attention to.

I might state with respect to that word "May," Mr. Powell, that I noticed that, too, and I think it is probably an error that we can clear up by stipulation. I am not asking you about that. I am asking you to start——

A. (Interrupting): I just saw that.

Q. I understand that. You just take your time on it.

A. (Examining transcript): This entire page? [734]

Q. Yes. You read that entire page and get it in mind.

A. (Examining transcript).

(The transcript referred to was passed to Mr. Clark.)

(Testimony of E. C. Powell.)

Q. (By Mr. Clark): No, I don't think you went over to the last part which was line 19 of page 592.

A. (Examining transcript).

Q. Now, have you read all of it? A. Yes.

Q. I want to ask you, Mr. Powell, whether or not, or rather whether it isn't the fact that yesterday, May 23rd, on your direct examination by Mr. Mouritsen in this proceeding, the following questions were asked you, and the following answers given by you, commencing at line 1, page 590 of the instant transcript, to and including line 19, page 592:

“Q. Now, where did this next conversation take place with Mr. Gordon Hammond?”

“A. In the warehouse.” [735]

“Q. Was anyone else present?”

“A. No.

“Q. Will you state what you said at that time to Mr. Gordon Hammond and what he said to you?”

“A. I told him that I had been in on one of the meetings and told him the president, and secretary and treasurer, and vice president, and the office of the union, the ones that were present there.

“Q. Well, will you state the names of those people—strike that.

“Did you state to Mr. Gordon Hammond the names of the people who held those offices?”

“A. I did.

(Testimony of E. C. Powell.)

“Q. Will you state the names that you gave to Mr. Gordon Hammond on that occasion?

“Mr. Clark: May I have the date of this, please?

“Trial Examiner Lindsay: This is the 9th, as I understand it.

“Mr. Clark: Of November.

“Trial Examiner Lindsay: 1938.

“Q. (By Mr. Mouritsen): Will you state the names of those officers that you named to Mr. Gordon Hammond?

“A. I told him Mr. Lonnie Spear was president, Mr. O. L. Farr was the vice president, Mr. R. K. Martin was secretary and treasurer, and I mentioned others present. [736]

“Q. Did you name their names to him?

“A. I did.

“Q. Will you state all of the names that you can recall that you named to him as being present at that meeting?

“A. Other than the ones I have mentioned, George Andrade, Elgin Ely, Steve Griffin, Pete Wingo, and Johnston—I do not know his initials. I do not know Johnston’s initials—but Johnston, anyway, and Joe Briley, Boyd Ely, and myself.

“Q. Was that—do you recall any further conversation that you had with Mr. Gordon Hammond at that time?

“A. Well, I mentioned that I was in that

(Testimony of E. C. Powell.)

meeting and found those present there, but when the business end of the meeting came up, I had to be dismissed, not being a member at that time; and I couldn't get anything further in that. And I believe that I mentioned that there was a charter. I have seen a charter of the American Federation of Labor that was installed that night.

“Q. Now, Mr. Powell, previous witnesses have testified that a meeting of the union was held at which a charter was installed on or about November, 1938.

“If I tell you that the date of the charter meeting was November 5, 1938, how long afterwards did this conversation that you had with Gordon that you have just discussed take place? [737]

“A. After the meeting of the 5th?

“Q. No, after the charter meeting, a meeting of the union at which the charter was installed. How long after this conversation that you had with Gordon Hammond take place?

“A. (Pause).

“Trial Examiner Lindsay: Do you understand the question?

“The Witness: I do not understand it.

“Q. (By Mr. Mouritsen): I believe you have testified that you attended a meeting of the union at which a charter was installed, is that correct? A. I did.

(Testimony of E. C. Powell.)

“Q. Now, how long after you attended that meeting did you have a conversation with Mr. Gordon Hammond that you have described?

“A. It was the next day I was telling him about the charter, or the next morning.

“Q. Okay.”

Now, did you give that testimony under oath here yesterday?

A. I give that testimony, but there is some confusion on someone, not myself.

Q. As a matter of fact, you didn't attend the charter meeting on November 5th, did you? [738]

A. Not November 5th.

Q. Nor any charter meeting? A. Yes, sir.

Q. When?

A. First I saw the charter was November 16th, I believe.

Q. I am talking about the meeting at which the members of this union installed their charter from the American Federation of Labor that is in evidence in this case.

A. That charter was installed, to my understanding, that night.

Q. You mean the night of the 14th or 15th?

A. The night of the 16th.

Q. That was your understanding, was it?

A. Yes.

Q. Were you present when it was installed?

A. I was there, first I had seen a charter, first

(Testimony of E. C. Powell.)

anyone else seen it; Mr. Prior just brought the charter up.

Q. Pardon me. Continue.

A. Mr. Prior and another party who I now am acquainted with, but at that time I was not acquainted with.

Q. What is his name? A. Alderson.

Q. What is his position?

A. He is from down south some place. I don't know his position. [739]

Q. Did you understand him to be some union representative that is affiliated with the American Federation of Labor? A. I did.

Q. Was there a ceremony at the meeting that you are discussing at which the charter was installed?

A. Well, there were some members taken on that night, as I recall.

Q. I am talking about the installation of this charter for this local union. Was there a ceremony concerning that?

A. Not concerning the charter that I recall, no.

Q. What happened then, without disclosing any of the union secrets, which leads you to testify in this case that the charter which the evidence shows in this matter was installed on November 5th was installed in this meeting immediately prior to November 16 that you are telling us about?

Mr. Mouritsen: I object—

Mr. Clark: (Interrupting): I will submit it.

(Testimony of E. C. Powell.)

Mr. Mouritsen: I object to the question, Mr. Examiner, as misleading and double-barreled, vague and indefinite; and not in accord with the witness' prior testimony.

Mr. Clark: I will admit it is not in accord with the witness' prior testimony all right. (Laughter).

Trial Examiner Lindsay: Now, let us not have any laughing in here. I said the other day that anyone who laughs during this hearing is going to be put out of this [740] hall. It is hard enough here to hear without having someone laughing and interrupting.

Now, may I have the objection and the reasons read?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Well, he may answer if he understands the question.

Mr. Clark: May I ask that the question be re-read, Mr. Examiner, so he will have it clearly in mind?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: May I have that read again? I am not so sure that I understand it.

(The record referred to was re-read by the reporter as set forth above.)

Trial Examiner Lindsay: Do you understand it?

(Testimony of E. C. Powell.)

The Witness: I understand it. Because I had not been to but one meeting prior to November 16th, at which time I was dismissed before any union activities were revealed. However, I returned on application to Mr. Lonnie Spear's house within the next night, if I recall it, and made application to join the union at November 16th; I was initiated and, therefore, it was the first time I saw the charter, knowing that there had been a charter. [741]

Q. (By Mr. Clark): And this first meeting that you refer to, I take it, is the one which you told us was a day, or possibly two days prior to November 16th, is that true? A. Yes.

Trial Examiner Lindsay: I think if you call that a gathering, as this witness has described it—

Mr. Clark: (Interrupting): Let me put the question this way. I think he called it a meeting.

Trial Examiner Lindsay: He said he was put out of the meeting, but that it was a gathering.

Q. (By Mr. Clark): This gathering or meeting which you were put out of because you hadn't yet joined the union, filed your application, was that meeting or gathering a day, or possibly two days, prior to November 16th?

A. Before November 16th.

Q. Your answer to that is yes? A. Yes.

Q. As a matter of fact, you didn't have any conversation with Mr. Gordon Hammond on November 9th concerning any information that you had acquired about this union, did you?

(Testimony of E. C. Powell.)

A. Yes. I had information that was hearsay, not knowing—of course at that time you could hear a lot, lots of rumors being put around, lots of facts, too.

Q. I see. [742]

In other words, it was pretty common gossip in the plant that certain men had become members of the union, or wanted it organized, and certain others didn't, isn't that true?

Mr. Mouritsen: Objected to as vague and indefinite, no definite period.

Mr. Clark: I will submit it. I am not calling for the substance of it, I am interested—

Trial Examiner Lindsay: (Interrupting): He may answer.

Mr. Clark: Yes.

The Witness: General opinion of the entire employment that there was being a union organized there, wondering who was in, who was who and what-not.

Mr. Clark: I see.

Trial Examiner Lindsay: I think we will have to adjourn and get this hall in shape for the people who are coming in here.

Mr. Clark: Yes, your Honor.

Trial Examiner Lindsay: We will meet in the morning at 9:30.

(Thereupon, at 1:50 o'clock p. m., an adjournment was taken until 9:30 o'clock a. m., Thursday, May 25, 1939.) [743]

American Legion Hall,
Corcoran, California,
Thursday, May 25, 1939. [744]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: The Respondents are ready, Mr. Examiner.

Mr. Mouritsen: Ready for the Board, Mr. Examiner.

EVAN C. POWELL

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Cross Examination (Continued)

Mr. Clark: Now, Mr. Examiner, may I call your attention, and also the attention of counsel, to page 732 of the transcript of yesterday, and particularly line 13, or rather, commencing with line 11, reading:

“At that time did Gordon Hammond tell you that approximately two months before, namely in the last of August, 1938, he had had a discussion about the Union with Mr. Prior?”

I think that if you will examine that testimony, Mr. Mouritsen, with relation to the material before and after, you will see that that reference to Mr. Prior should be Farr, and I think the reporter's notes will show that, too.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: I definitely remember the question yesterday, and you did say Mr. Prior, and I wondered at the time—that was your question?

Mr. Clark: Of course my recollection of it is I said "Farr," Mr. Examiner, and just so we will not waste any time on it, I will ask the witness that at this time. [746]

Q. Mr. Powell, directing your attention to the conversation which you said you had with Mr. Gordon Hammond on November 6th, 1938, I will ask you whether or not at that time he stated to you that approximately two months before, namely in the last of August, 1938, he had had a discussion about the Union with Mr. Farr?

A. He could have. I don't recall in making that statement.

Q. Will you say that he did not make that statement to you?

A. I would not state that he did not make it.

Q. Very well. Now, may I ask you also, Mr. Powell, whether the conviction of a felony in the State of Georgia, to which you testified to yesterday, was for murder? A. It was not.

Q. What was it for, please?

A. May I have the question re-read?

(The question referred to was read by the reporter, as set forth above.)

The Witness: The conviction that I did get?

Q. (By Mr. Clark): Yes.

A. For stabbing.

(Testimony of E. C. Powell.)

Q. For stabbing? A. Yes.

Q. Well, did that result in the death of the person you stabbed?

A. It did not; the fellow recovered. [747]

Q. He fully recovered.

How old are you, please?

A. Thirty-eight.

Q. Now, as a matter of fact, you had no further conversations with Mr. Gordon Hammond at which you gave him any information about this Union after November 6th, 1938, until the morning of November 17th, is that not true?

A. I had a conversation with him continuously about every day or so.

Q. Commencing when, please?

A. During that time, from November 1st to November 16th.

Q. Well, by "November 1st" do you refer to the time of your first conversation with Mr. Gordon Hammond respecting the subject matter and about which you testified yesterday?

Mr. Mouritsen: I object to that as too indefinite.

Mr. Clark: I will withdraw the question—

Trial Examiner Lindsay: (Interrupting): Try to make the question—

Mr. Clark: (Interrupting): And try to establish the time again.

Q. Do you remember that yesterday you testified that the first conversation you had with Mr. Gordon Hammond respecting your obtaining any informa-

(Testimony of E. C. Powell.)

tion concerning this Union was on November 6th?

A. No—I had a conversation on November 6th with Mr. Hammond. [748]

Q. Wasn't that the first conversation you had concerning this subject?

A. No, it was not.

Q. Well, didn't you testify yesterday on your cross examination that it was the first time you had any conversation with him concerning—

A. (Interrupting): I did, but now I am mistaken in that testimony about the date.

Q. You did so testify yesterday?

A. I did, but I am mistaken about the date. I have papers showing how I was confused in that time, the date, and I know it should be November 5th in place of the 16th, the first meeting I attended.

Q. Well, have you talked to anybody about it?

A. I talked to my wife about it yesterday. She called my attention to it after the testimony yesterday and said, "You were mistaken about the date," and asked me if I didn't remember what occurred the night of this meeting. Looking through some papers I had and refreshing my mind on it, there was a dance in this hall that I was going to attend that night, and Mrs. Martin came by and told my wife that they were having a meeting at O. L. Farr's house that night and invited me to attend; therefore I didn't go to the dance and did go to the meeting. I had a Company pick-up truck that night.

Q. Have you anything further to add? [749]

(Testimony of E. C. Powell.)

A. What is that?

Q. Have you anything further to add to that?

A. I am positive now that it was November 5th in place of the 16th. [750]

Q. All right.

Now, was your wife present in court yesterday when you gave your testimony?

A. Yes, she was.

Q. And do I understand that your conversation with your wife concerning your testimony was after court had adjourned yesterday afternoon?

A. Yes, it was.

Q. Did you not hear the admonition of his Honor that you were not to speak to any person concerning your testimony while you were giving it?

A. Not my wife. A man has a right to talk to his wife anytime she desires to talk to you.

Q. Even concerning this subject?

A. I guess so.

Q. Have you discussed the matters you have just stated on the stand with anyone else other than your wife about what you stated yesterday?

A. My counsel.

Q. Your counsel? A. Yes.

Q. Who is that, please?

A. Mr. Mouritsen.

Q. You discussed it with Mr. Mouritsen?

A. With Mr. Mouritsen and with Mr. Prior. [751]

Q. With Mr. Mouritsen and with Mr. Prior?

(Testimony of E. C. Powell.)

A. Yes, sir.

Q. And with Mr. McTernan? A. No, sir.

Q. And when did you discuss this correction, if you can call it that, in your testimony with Mr. Mouritsen?

A. I discussed the entire hearing with Mr. Mouritsen.

Q. You mean since yesterday afternoon?

A. All of the time since the hearing started.

Q. I am talking particularly about since you got on the witness stand. A. Why, yes.

Q. Is it your testimony, Mr. Witness, that you have been discussing your testimony, that is, the evidence that you have been giving here, with Mr. Mouritsen while you were in the progress of testifying, that is, during the recesses and during your testimony?

A. In regard to mistaken identity and the dates, yes.

Q. How about Mr. Prior? Have you had similar discussions with him during this similar period of time you have been on the stand?

A. Mr. Prior asked me if I recalled a certain date. I didn't have it in mind and I went home and verified it by a telegram I had there.

Q. When did Mr. Prior ask you that? [752]

A. Yesterday.

Q. When?

A. I don't recall just when it was.

Q. Was it after court adjourned?

(Testimony of E. C. Powell.)

A. I don't recall whether after court adjourned or not. This particular date he was referring to me was not concerning yesterday's testimony at all.

Q. Well, it was concerning your testimony, though, wasn't it?

A. Yes, my testimony; but not yesterday's testimony.

Q. Did you not hear his Honor's admonition to you and to all witnesses in this case that they were not to discuss their testimony with anyone whatsoever while they were on the stand and giving it and during the recesses taken?

Mr. Mouritsen: Mr. Examiner, was that a correct statement of your Honor's admonition?

Trial Examiner Lindsay: No. I stated—I added, outside of counsel in this case.

I don't understand that in any court the witness doesn't have a right to talk to counsel.

Mr. Clark: I understand that to be your Honor's admonition.

Trial Examiner Lindsay: That was my instruction, outside of counsel in the case.

I had no thought in mind about a man's wife or anything [753] about that. I meant I didn't want any witness discussing it pro and con with others in the court room who might be interested in the case; and I think that is a proper instruction.

Now, I don't believe that I would have a right to instruct the witness not to talk to counsel in the case. I have never done that and I don't believe

(Testimony of E. C. Powell.)

that it is right. It has never been done to me in a trial of any case that I have ever been in as counsel. Now, if there is any rule here in your State—but I am sure there isn't—

Mr. Clark: (Interrupting): Of course, there isn't.

Trial Examiner Lindsay: Counsel in the case have a right—

Mr. Clark: (Interrupting): May I finish my statement?

Trial Examiner Lindsay: Yes.

Mr. Clark: Of course, there isn't; but I understood that to be your admonition.

Trial Examiner Lindsay: That couldn't have been if you had listened to what I have said. If you want the record read back, I will have it read.

Mr. Clark: The record speaks for itself.

Q. Mr. Prior, did you discuss your testimony with anyone else yesterday?

A. No one other than counsel and my wife.

Trial Examiner Lindsay: The question is wrong. It is Mr. Powell. [754]

Mr. Clark: Yes. May that be changed in the record?

Q. Did you discuss your testimony with anyone else?

A. None other than counsel and my wife. [755]

Q. As a matter of fact, you have been together evenings, part of them, together with counsel for the Board and Mr. Prior in the room where this testimony has been written up?

(Testimony of E. C. Powell.)

A. Not in the room where the testimony has been written.

Q. You have been in the hotel?

A. I have a room in the hotel.

Q. Are you living there now?

A. At this particular time, no. The night before last I stayed in the hotel.

Q. I see.

And the night before last didn't you spend the evening with counsel for the Board and Mr. Prior, and weren't you present while the record was being written up in this matter?

A. I wasn't present while the record was being written up.

Q. While the reporter was writing up the testimony?

A. I was not around the reporter at all.

Q. Weren't you in the room while the record was being written up? A. No.

Trial Examiner Lindsay: Let us go on with something else.

Mr. Clark: I have a right to go into it so long as it is within proper bounds.

Trial Examiner Lindsay: You have gone into it plenty. Proceed.

Q. (By Mr. Clark): Didn't you on that evening, that is, the [756] night before last, go over those dates and all of your testimony with counsel for the Board?

A. I discussed my testimony with counsel.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: That has been gone into.

Mr. Clark: Very well. I am proceeding, Mr. Examiner.

Q. The thing I am interested in is this, Mr. Powell: Hadn't you ascertained the date you told us about this morning, that is, the November 5th date, prior to the time you first took the stand to testify in this matter?

A. I only discovered the identity by papers where I was mistaken in previous testimony in reference to the date. I discovered I was mistaken in that testimony, and I wanted to correct it and make it as it was.

Q. Do I understand that you only discovered that mistake since court adjourned yesterday?

A. I did.

Q. Is that true? A. That is true.

Q. You spoke of referring to some papers which enabled you to fix the date while you were discussing the matter with your wife yesterday afternoon.

Have you that paper with you?

A. I have.

Q. May I see it?

A. (Indicating document): This is the telegram that Mr. R. K. [757] Martin handed me stating that Mr. Prior was to be up here and would like for me to meet him. Mr. Prior did not fill this appointment that he referred to in this telegram; and in the meantime, I in some way became in possession

(Testimony of E. C. Powell.)

of the telegram I have here at home, and I had it in an envelope with some names.

I remember distinctly now, and as I said before, that the night I saw this charter was on November 5 and Elgin Ely, a former employee of the Company, I had learned, had become a member that night.

And Mr. Prior didn't fill this appointment that he was supposed to, but he did come on November 5th.

Q. By "this appointment—" or, rather, when you stated "this appointment," you have pointed to a telegram which you have handed me, and which I hold in my hand.

I would like, may it please the Examiner, to have this telegram marked for identification as the Respondent Boswell's Exhibit next in order.

(Thereupon, the document above referred to was marked as Respondent Boswell's Exhibit 4 for identification.)

Q. (By Mr. Clark): This telegram isn't addressed to you? A. No, sir.

Q. It is addressed to Mr. R. K. Martin?

A. Yes, sir.

Q. When did you first receive it from Mr. Martin? [758]

A. Some few days after he told me that Mr. Prior would be up here.

Q. Do you remember the circumstances under which you received this telegram from Mr. Martin?

(Testimony of E. C. Powell.)

A. Just in the conversation with him. He told me that the organizer was supposed to be here, and I had never met him and he would like to have me hear what he had to say.

Q. Where was this conversation?

A. This conversation was with Mr. Martin you are speaking of.

Q. Yes.

A. That was down in front of Oliver Farr's house.

Q. And when was it, as near as you can fix it, with respect to October 29th, 1938?

A. It comes to my mind it was the next day after the telegram came.

Q. That would be October 30th? A. Yes.

Q. Do you remember anyone else being present?

A. No, I don't remember anyone else being present.

Q. And as I understand it, Mr. Martin told you that Mr. Prior would be up on that day, that is, October 30th, to see you?

A. I was looking for him up here. He said he would be up, and I was looking for him. [759]

Q. And that Mr. Prior would be up on that day, namely, October 30th, is that right?

A. I say he was supposed to be up.

Q. I see.

Do I understand that Mr. Martin handed this wire to you to keep?

A. He didn't hand it to me to keep.

Q. But you kept it? A. Yes.

Mr. Clark: I offer it in evidence.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: It may be received.

(Thereupon, the document above referred to was received in evidence and marked as Respondent Boswell Company's Exhibit No. 4.)

Mr. Clark: It is very short. I would like to read it into the record.

Trial Examiner Lindsay: It isn't necessary. It speaks for itself.

Mr. Clark: It only consists of five words. I would like to read it.

Trial Examiner Lindsay: It is already in the record. [760]

Mr. Clark: Very well.

Q. You will notice, Mr. Powell, that this telegram states, it being dated October 29, 1938, and addressed to Mr. R. K. Martin, simply that Mr. Prior will be in Corcoran tomorrow.

A. I think that is the way it is worded.

Q. Without any reference at all to you.

A. No reference to me whatsoever. It is merely that Mr. Martin gave me the telegram, stated that he was looking me up and I kept the wire intending to hand it over to Mr. Hammond. I never did.

Q. You never showed it to Mr. Hammond?

A. No, sir.

Q. All right.

How long was it prior to October 29th that you first discussed with Mr. R. K. Martin anything about this union?

(Testimony of E. C. Powell.)

A. I don't recall discussing anything because at that time I wasn't interested in the union.

Q. How did it happen then that Mr. Martin met you for the purpose of delivering the wire to you?

Mr. Mouritsen: I object to that as assuming facts not in evidence and misleading.

Mr. Clark: I will withdraw that question.

Q. How did it happen that Mr. Martin met you on the occasion of October 30th at which he delivered the wire marked respondent Boswell's Exhibit 4 to you? [761]

A. I am just presuming that Mr. Martin was looking for anyone interested in that line, and contacting anyone that was interested in this line. Martin and I are very close friends.

Q. You and Martin are very close friends?

A. I presume we are. I know nothing to the contrary.

Q. How long prior to October 29, 1938, had you and Martin been very close friends?

A. Since my arrival in California in 1936. I have known Mr. Martin practically all his life.

Q. And during the fall of 1938, that is, since July 3rd, upon which date you returned to employment at the Boswell Company, did you see Mr. Martin frequently? A. Every day.

Q. Every day. And did you pass time with him socially? A. I presume.

Q. Did you have a drink with him now and then?

Mr. Mouritsen: Objected to as immaterial.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: Sustained.

Q. By Mr. Clark: And is it your testimony, Mr. Powell, that at no time during the fall of 1938 did Mr. Martin make known to you the fact that he was attempting to organize or was organizing this union?

Mr. Mouritsen: Objected to as indefinite.

Mr. Clark: That is fixed after July 3rd, 1938. [762]

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

The Witness: That is news to me. I never knew of Mr. Martin being an organizer. I never heard of that before.

Q. By Mr. Clark: Never heard of that before?

A. Not being an organizer.

Q. Didn't you testify you heard rumors along in 1938 that Mr. Martin and Mr. Farr were attempting to organize this union?

A. I have heard various rumors.

Q. So you have heard that rumored, haven't you? A. Yes, I have heard lots of rumors.

Q. Didn't you ask Mr. Martin whether these rumors were true?

A. I might have asked Mr. Martin lots of things. Mr. Martin might have told me lots of things. I don't know anything along that line.

Q. Is it your testimony, Mr. Powell, that at no

(Testimony of E. C. Powell.)

time from July 3rd, 1938, did your close friend, Mr. Martin, tell you that he had joined this union, up to November 1st?

A. I never knew positively that Mr. Martin had joined the union until the night of November 16th.

Q. I see.

That was the night you first attended a meeting, is that [763] true?

A. No, it was not; November 5th I first attended a meeting.

Q. You didn't find out at the meeting of November 5th that Mr. Martin was a member?

A. No, I did not.

Q. I see.

A. He was present at that meeting, but I didn't know he was a member, definitely or not.

Q. I see.

And you had never discussed the matter of either his joining or your joining this union with him prior to that time, is that true?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial; already asked and answered.

Trial Examiner Lindsay: Sustained. Now let us proceed with the examination along lines that have not been touched upon.

Q. By Mr. Clark: May I have the other document you referred to as enabling you to fix the date of November 5th?

A. This is an application form I made out on that date.

(Testimony of E. C. Powell.)

Mr. Mouritsen: May I have that answer read, the question and the answer?

I ask the witness to pay particular attention to the question and answer.

(The record referred to was read by the reporter, as set [764] forth above.)

Mr. Clark: I think that is responsive.

Trial Examiner Lindsay: Well, "on that date" is confusing. You mean on the date of that document there?

Q. By Mr. Clark: On the date of the document or on November 5, which?

Trial Examiner Lindsay: Show him the document.

Mr. Clark: Just a minute, may it please the Examiner. I will ask that the witness give me the date. He has just had the document in his hands. He said it enabled him to fix the date——

The Witness (Interrupting): Of this document?

Q. By Mr. Clark: Yes.

A. On the 11th of November.

Q. On November 11th?

A. That is right.

I ask that the document just handed me by the witness be marked for identification, your Honor.

(Thereupon the document above referred to was received and marked Respondent Boswell's Exhibit No. 5 for identification.)

Mr. Mouritsen: May I see it?

Mr. Clark: Oh, surely.

(Testimony of E. C. Powell.)

(The document referred to was passed to Mr. Mouritsen.)

Q. By Mr. Clark: Now, what is this document you have just handed me? [765]

A. That is an application for the union.

Q. When did you sign it?

A. On that night, the 11th.

Q. On November 11, 1938? This is the first application you made for membership?

A. That is the one.

Q. And to whom did you deliver it, if anyone?

A. Mr. R. K. Martin.

Q. And when, please?

A. On the night of November 11th.

Q. And where?

A. In Mr. Spear's house, Loonie Spear's.

Q. I see. Now, I want to direct your attention to a word in ink which follows the printed words "my health is good," and I will ask you if you will tell me what that word written in ink is?

A. Fair.

Q. Fair. I see. This is all in your handwriting?

A. Not all, no.

Q. What part is not?

A. That (Indicating).

Q. You mean the name of the union, Cotton Products and Grain Mill Workers' Union, Local No. 21798?

A. That is right. This is my signature and this is my writing. [766]

(Testimony of E. C. Powell.)

Q. Pointing to "E. C. Powell" is your signature? A. That is right.

Q. And the rest of it is all in your handwriting, is that right? A. It is.

Q. All right.

In whose writing is the name of the union?

A. Mr. R. K. Martin's.

Q. I see.

Was it upon the strength of this application that you were admitted to membership in the union?

A. It was.

Q. And when were you admitted to membership in the union?

A. November 16th, on the night of November 16th.

Q. Very well.

We offer the document just identified by the witness in evidence, your Honor, as Boswell's Exhibit 5.

Mr. Mouritsen: No objection.

Trial Examiner Lindsay: Received.

(Thereupon the document above referred to was received in evidence and marked as Respondent Boswell's Exhibit No. 5.)

BOSWELL'S EXHIBIT No. 5

Affiliated with The American Federation of Labor, The California State Federation of Labor, San Pedro-Wilmington Central Labor Council and Long Beach Central Labor Council.

(Testimony of E. C. Powell.)

Cotton Products & Grain Mill Workers
Union No. 21798

California State Council of Soap & Edible Oil
Workers of California

Office: 309 Broad Ave., Wilmington, Calif.
Telephone 1455

Date 11/11th, 1938.

I, E. C. Powell, do hereby make application to your honorable body for membership, and pending my final acceptance as a member, I hereby designate the American Federation of Labor and/or its affiliated union No. 21798, as my exclusive representative for purposes of collective bargaining. Should my application meet with your approval, I promise faithful obedience to the Laws, Rules and Regulations of your union.

I am employed by J. G. Boswell Co.

My duties are Warehouse Worker and Laborer.

How long employed? (2) two years.

Date of birth? Dec. 23, 1900.

My health is good. *Fare.*

My Beneficiary is Mrs. E. C. Powell.

Address #1140 Norboe St.

Phone.....

Name E. C. Powell.

Application presented by.....

(If initiation fee is not paid in full or applicant is not initiated within 30 days all money paid shall be forfeited.)

[Endorsed]: Filed 5/25/39.

(Testimony of E. C. Powell.)

Q. By Mr. Clark: How many conversations did you have with Mr. Gordon Hammond—

A. (Interrupting): Numerous—

Q. (Continuing) Just a minute—after the first conver- [767] sation you have testified to as having occurred on or about November 1st, 1938, up to 10:00 o'clock on the morning of November 18th?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit that.

Trial Examiner Lindsay: He may answer.

The Witness: Numerous conversations. [768]

Q. (By Mr. Clark) Can you fix the number of them for us?

A. Could not fix—begin to fix the numbers of the conversations I have had with him during that time.

Q. Did you have as many as a dozen?

A. Yes. I have talked with Mr. Hammond every day during that time; practically every day.

Q. I am only concerned with conversations at which you gave him information about the Unions. You understand that, don't you?

A. Yes, I think so.

Q. And I am calling for the number of conversations, as nearly as you can fix them at this time, and just approximately, which you had with Gordon Hammond on that subject matter between your first meeting of about November 1st and 10:00 o'clock in the morning of November 18th?

(Testimony of E. C. Powell.)

A. I talked with Mr. Hammond about it all the time, every day or so, but there is some instances in my mind that I know of about the time they were.

Q. Well, give us those, if you can, just in order, as nearly as you re—can remember.

Mr. Mouritsen: Including the first.

Mr. Clark: Let us not bother with the first one.

Q. Take the next one after the first conversation?

A. The first negotiations on Union activity.

Mr. Clark: Just a minute. I will ask that that go out. [769]

Trial Examiner Lindsay: The second one he wants to know about, the second conversation.

Mr. Clark: The second conversation.

Trial Examiner Lindsay: I am sure if you put your questions plainly, the witnesses will understand them and try to answer them.

Now, this second conversation is the one that he is talking about.

Mr. Clark: I am asking the witness to give me the approximate number of conversations that he had with Mr. Hammond on this subject matter, Mr. Examiner.

Trial Examiner Lindsay: You asked so many questions together there—will you read back the record, Mr. Reporter?

(The record referred to was read by the reporter, as set forth above.)

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: Which are you asking for, the number or the second one? You have two questions.

Mr. Clark: I will stand on the last question and ask that it be read to the witness.

Trial Examiner Lindsay: I want the first one answered. Now——

Mr. Clark (Interrupting): I would like the record to show——

Trial Examiner Lindsay (Interrupting): Just a minute.

Mr. Clark (Continuing) ——just a minute, Mr. Examiner. [770]

Trial Examiner Lindsay: Just a minute. You——

Mr. Clark (Interrupting): Let me make my statement plain.

Trial Examiner Lindsay: Just a minute. Let us understand each other.

When I start to talk, I am not going to be interrupted any more.

Now, the purpose of this hearing is to go along in a smooth manner and get the testimony. The purpose is not to have two or three questions put to a witness at once, without giving him an opportunity to answer them. Witnesses in any trial in a court are entitled to a reasonable amount of protection from compound questions, unreasonably long questions, and when a question is asked, unless the question is withdrawn—you haven't withdrawn that question—the question should be answered.

(Testimony of E. C. Powell.)

Now, if you wish to withdraw your question, which has not been answered, then you may withdraw it, but I want the record completed. I don't want questions in there that have not been withdrawn and have not been answered, because our record is not complete then.

Now, that one question, which has not been answered, followed by another question, now, either one or the other should be withdrawn and let us proceed.

Q. (By Mr. Clark) Well, I will ask, Mr. Witness, this ques- [771] tion: Can you tell us approximately how many meetings—

Trial Examiner Lindsay (Interrupting): You don't withdraw either of those two questions?

Mr. Clark: I think I would rather have the record stand just as it is, Mr. Examiner. I would like the record to show exactly what is happening in this proceeding.

Trial Examiner Lindsay: Yes. You are just confusing—

Mr. Clark (Interrupting): I would like everything to be on the record.

Trial Examiner Lindsay: All right. You are refusing to comply with my request, then, to either have that question answered or withdrawn? I want the record correct, that is all. If that is your method, it may remain.

Mr. Clark: Now may I proceed, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(Testimony of E. C. Powell.)

Q. (By Mr. Clark) Now, Mr. Powell, will you please tell us approximately how many meetings you had with Mr. Gordon Hammond concerning this Union between your first meeting, which you said was on November 1st, 1938, and 10:00 o'clock in the morning of November 18th?

A. Several.

Q. Now, can you fix the number of them for us, approximately? A. Important ones, I can.

Q. First let us take all of them, important and unimportant, and in that connection I will ask you whether you can give us [772] any approximately of the number of such meetings during this period?

A. I can fix the important meetings. I can't fix the number of conversations I had with Mr. Hammond in regard to the Union.

Q. Can you fix them approximately?

A. Can not.

Q. All right.

Now, let us take the ones you described as being the important ones between November 1st, 1938 and 10:00 o'clock in the morning of November 18th, 1938, and I will ask you how many of those conversations you had with Mr. Gordon Hammond concerning this Union?

Mr. Mouritsen: Objected to as indefinite. Does it refer to the same period, November 1st to November 18th?

Mr. Clark: It is in the very question. I will submit it, Mr. Examiner.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: If he understands the question, he may answer.

Do you know what period he is talking about?

The Witness: Several conversations about it.

Q. (By Mr. Clark) Can you fix the number of them?

A. I would say six or eight, more or less, important ones.

Q. All right.

More than eight?

Mr. Mouritsen: I object to that—— [773]

Trial Examiner Lindsay (Interrupting): Sustained.

Q. (By Mr. Clark) Or less than eight?

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Now, can you tell us when the first one of these conversations with Mr. Gordon Hammond took place? A. On November 1st. [774]

Q. Are you referring to the conversations you have already told us about as being the first time you discussed this union with Mr. Gordon Hammond?

A. Negotiations.

Mr. Clark: Well, might I have the questions re-read to the witness, Mr. Examiner, and may I ask that that answer go out as not responsive?

Trial Examiner Lindsay: Read the question and the answer, please.

(Testimony of E. C. Powell.)

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I ask that that go out as not responsive and ask that he answer the question if he can do so.

Mr. Mouritsen: I object to the question as being vague and indefinite.

Trial Examiner Lindsay: The answer and the question both may stand.

Mr. Clark: Very well.

Q. When was the next conversation which you say you had with Mr. Gordon Hammond concerning this union during this period of time, namely, from November 1, 1938, to 10:00 o'clock on the morning of November 18th?

Mr. Mouritsen: I object to the question upon the ground it is vague and indefinite, and an unfair question to the witness. There isn't sufficient identification of the [775] conference so that counsel is requiring the witness to testify about.

Mr. Clark: Now may I make a statement before your Honor rules?

Trial Examiner Lindsay: Yes.

Mr. Clark: As I understand the witness' testimony, he said there were six or eight important conversations—

Trial Examiner Lindsay (Interrupting): More or less.

Mr. Clark (Continuing): —more or less, relative to the union, with Mr. Gordon Hammond dur-

(Testimony of E. C. Powell.)

ing the period November 1st to 10:00 o'clock in the morning of November 18th. I have asked him to give me the first one of those and he has stated that as November 1st.

Trial Examiner Lindsay: About November 1st, he said.

Mr. Clark: About November 1st. Then I asked him whether or not that was the meeting he told us about yesterday, being the first meeting with Mr. Hammond, and he answered "negotiations" which I understand is an affirmative answer—at any rate it is in the record for what it is worth—and now I have asked him for the next time, next one of these six or eight conversations, more or less, and I think I am entitled—

Trial Examiner Lindsay (Interrupting): Ask him for the next conversation.

Mr. Clark: That is all I have done. [776]

Trial Examiner Lindsay: What was the next conversation is what he wants.

The Witness: As I recall, on or about November 6th, which was on Sunday. It was that date, about November 6th, immediately following the meeting of November 5th at O. L. Farr's house.

Mr. Clark: All right.

Q. Now, you say November 6th was on a Sunday?
A. I think it was.

Q. Have you looked at a calendar since yesterday's testimony?
A. Yes.

Q. In order to fix that date, is that right?

(Testimony of E. C. Powell.)

A. No.

Q. Well, is it your testimony that you just happened to look at a calendar for the month of November 1938 since yesterday?

A. I have been refreshing my memory about those dates.

Q. Yes. In other words, you were trying to fix this meeting, weren't you? A. I did fix it.

Q. Apparently (Laughter).

Trial Examiner Lindsay: Let us not have that laughter from anyone.

Q. (By Mr. Clark) Now, where did that meeting take [777] place, that is, the one you say you had with Gordon Hammond on November 6th?

A. J. G. Boswell plant. I don't say it was on the morning of the 6th. I said about November 6th; as I recall it, it was the next day.

Q. Well—very well.

At any rate, this is the second important conversation you had with Mr. Gordon Hammond during this period of time, that is, from November 1st to 10:00 o'clock in the morning on November 18th, isn't that right? A. No, it is not the first.

Q. The second one.

A. Yes, second one.

Q. All right.

Now, where was the conversation held in the Boswell plant, that is, what part of the property?

A. Speaking of this after November 5, the conversation after November 5th? Is that the one you are referring to?

(Testimony of E. C. Powell.)

Q. Yes. I am referring to the second conversation that you have told us about.

A. At the J. G. Boswell plant.

Q. Where on the J. G. Boswell property did this conversation take place?

A. It was in the warehouse.

Q. And was that in the warehouse you described yesterday [778] as the main warehouse?

A. Yes, sir.

Q. And where in the warehouse were you and Mr. Hammond standing at the time you talked.

A. In the main warehouse.

Q. Well, where in the main warehouse?

A. I don't recall the exact spot of that particular conversation.

Q. Where is the main door or main entrance to that warehouse? What part of the building is it on?

Mr. Mouritsen: I object to that as vague and indefinite.

Mr. Clark: I will submit it.

Mr. Mouritsen: What side——

Mr. Clark (Interrupting): ——East, south, west, or north.

Trial Examiner Lindsay: He may answer.

The Witness: I don't know of any main entrance. There are several entrances that are used there. I don't know whether you would call it a main entrance to that warehouse.

Q. (By Mr. Clark): Are the entrances designated by any name?

(Testimony of E. C. Powell.)

A. I recall that on the south side, on the railroad track side, that they are, I believe, numbers on the door. I don't [779] recall numbers on other doors.

Q. Well, what door, if any, were you standing near at the time you had this conversation with Mr. Hammond?

Mr. Mouritsen: Objected to as already asked and answered. The witness stated he does not recall where in the warehouse this particular conversation took place.

Trial Examiner Lindsay: Yes. Proceed.

Q. (By Mr. Clark) Can you locate your position and that of Mr. Hammond in the warehouse any more definitely on this occasion, any more definitely for us than you already have?

A. I can not.

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: He has answered.

Q. (By Mr. Clark) Was anyone else present?

A. No one was ever present at conversations I had with Mr. Gordon Hammond along those lines. We were solely alone at all conversations. [780]

Q. I see.

And what information did you give Mr. Gordon Hammond concerning this Union on that occasion?

A. I told him that I had been in on one of the meetings on the 5th, that I had seen the charter of the American Federation of Labor, and I told him the names that I had seen on that charter.

(Testimony of E. C. Powell.)

Q. What were those names?

A. I don't recall the names now. They were fresh in my mind at that time.

Q. Do you recall any of the names now?

A. I don't recall any of the names at this time.

Q. Can't you give us the names of a single one of these several names that appear on that charter?

A. I can't now.

Q. Very well.

Q. What else did you tell Mr. Hammond about this union?

A. I told him of the number of men present at that meeting.

Q. How many did you say were present?

A. Something about twelve, more or less.

Q. What else did you tell him about the Union?

A. I told him I had gotten kicked out during the business end of the meeting, and I didn't obtain very much other than the ones present there.

Q. Did you give him the names of the men that were present? A. Yes. [781]

Q. And what were those names?

A. Mr. Martin, Mr. Spear and Mr. Farr, Mr. George Andrade, Joe Briley, Johnson and myself.

Q. Now, you have given seven. How about the other five that you told him were there?

A. Twelve, more or less, I think I said.

Q. Well, how much less than twelve?

A. I don't recall now.

(Testimony of E. C. Powell.)

Q. Can you name any more of the people that you told Mr. Hammond were at the meeting?

A. At that time I gave him all of the names that were at that meeting. I don't recall now just who all they were.

Q. I see.

Now, what other information, if any, concerning this Union, did you give Mr. Hammond on this occasion, that is, the conversation you have placed as being about November 6th?

A. I told him that I had gotten in on the meeting, and told him the names of the ones present, and when the business end of the meeting came up, I wasn't a member and I got kicked out, and I would have to make application for membership to get anything else.

Q. Did you tell him that you intended to apply for membership in the Union? A. I did.

Q. And did he tell you that that would not have any effect [782] whatsoever upon your job at Boswell Company's? A. He did.

Q. When you signed the application for membership in this Union on November 12th—November 11th, 1938, did you really in good faith intend to become a member of that Union?

A. Yes, sir. I did become a member of that Union.

Q. You intended to obey the oath you took, and the rules of the Union, is that not right?

A. I did obey the oath I took.

(Testimony of E. C. Powell.)

Q. Didn't you later have conversations with Mr. Hammond at which you gave him information about this Union?

A. Not in revealing any Union activities, no, not any secrets of the Union activities.

Q. I see.

In other words, after this conversation which you placed as being about November 6th, you never again gave Mr. Gordon Hammond any authentic information about the Union, is that true?

Mr. Mouritsen: May I have the question read?

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: Not after November 16th.

Q. (By Mr. Clark) Well, you did, then, have further conversations with him at which you gave him information about the [783] Union after you had filed this application on November 11th, is that right?

A. That is right. After I filed the application, but not after I took oath in the membership.

Q. I see.

In other words, your oath was sacred to you, wasn't it?

A. Sure.

Q. Yes.

Now, will you please place for us, as nearly as you can, Mr. Powell, the next meeting, if any, or, that is, the next conversation, if any, which you

(Testimony of E. C. Powell.)

had with Mr. Gordon Hammond concerning this Union after the one you have just told us about as taking place on or about November 6th?

A. I told Mr. Hammond later I had joined the Union.

Q. No, no. You misunderstand me.

Trial Examiner Lindsay: Read the question.

Q. (By Mr. Clark) I want you to give us the date of the next conversation, if any?

Trial Examiner Lindsay: That is after the second, the one you have described.

The Witness: On or about the 12th I told him I had been at a meeting with Lonnie Farr and made an application——

Mr. Clark (Interrupting): May I have him fix it?

Trial Examiner Lindsay: What do you mean?

Mr. Clark: I asked him when it was. He started with [784] something I didn't get.

The Witness: You interrupted me before I had time to finish.

Mr. Clark: May I have the record read back?

Trial Examiner Lindsay: Yes, read the answer.

(The answer referred to was read by the reporter, as set forth above.)

The Witness: I did. [785]

Mr. Clark: May I ask that all of that answer go out except his statement that it was on or about the 12th as being not responsive.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: It may remain.

Mr. Clark: Very well.

Q. That was on or about the 12th of November?

A. Yes.

Q. Where did this conversation take place?

A. In the warehouse.

Q. On the Boswell property? A. Yes, sir.

Q. What time of day was it?

A. I don't recall the time of day.

Q. Can you tell us whether it was in the morning or afternoon?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: All right.

Q. Can you tell us where in the warehouse the conversation took place there?

A. I could not.

Q. What is your answer? A. I could not.

Q. Can you tell us whether it was on the south or the north side of the warehouse? [786]

A. Nor east nor west.

Q. I see. You have no recollection at all about the place in the warehouse or the time of day, is that right? A. No, I don't.

Q. All right.

Now, will you tell us, Mr. Powell, what information you gave to Mr. Gordon Hammond concerning the union on this occasion, namely, November 12th?

A. I told him the number that had made application that night with myself.

(Testimony of E. C. Powell.)

Q. What did you tell him about that?

A. I told him Mr. Winslow and Mr. Johnston and I think Mr. Ely, if I recall it now, had made applications, Elgin Ely.

Q. Did you tell him anything else about this union?

A. I don't recall that I told him anything else at that time.

Q. Now, this was after you yourself had made application, of course? A. Yes.

Q. At the meeting on November 5th, or whenever it was that you had first attended a gathering of the members of this union, did anyone show you a copy of the laws of the union or rules and regulations?

A. What meeting was this now? The 5th, you say?

A. At the 1st gathering of the members of this union that [787] you ever attended, whenever it was.

A. Did anyone tell me the rules and regulations at that meeting?

Q. Yes. A. No.

Q. Did anyone show you a copy of the constitution and by-laws of the American Federation of Labor?

A. No. They showed me nothing down there.

Q. Did they make any explanation to you concerning what the union stood for or its rules or anything about its constitution?

A. They explained along that line.

(Testimony of E. C. Powell.)

Mr. Mouritsen: I object to that as vague and indefinite, no time fixed.

Mr. Clark: The time is fixed, Mr. Examiner. It was at the first gathering, whenever it was, of the members of this union that this gentleman attended.

Trial Examiner Lindsay: He may answer.

The Witness: The principles were explained by Mr. Prior.

Q. (By Mr. Clark) Were you told at that time, that is, at this first gathering of union members, that you ever attended, that one of the things expected of you if you joined the union was to keep secret the matters vital to the union? [788]

A. That wasn't revealed that night. That was the night of November 16th that I was informed of those by oath.

Q. Did you read this application which has been marked Respondent Boswell's Exhibit No. 5 and which you handed me this morning before you signed it? A. Yes, I think so.

Q. Did you understand it?

A. I think I understand it.

Q. Did you particularly read this sentence appearing in the application: "Should my application meet with your approval, I promise faithful obedience to the Laws, Rules and Regulations of your union."

A. If that is on there, I read it.

Q. Yes.

Now, what else on the morning of November 12,

(Testimony of E. C. Powell.)

1938, did you tell Mr. Gordon Hammond concerning this union?

A. I didn't say on the morning of the 12th.

Mr. Clark: I am sorry, and I withdraw that. It is entirely unintentional. I withdraw the question and ask that it be stricken.

Q. What else, if anything, did you say to Mr. Gordon Hammond respecting this union during the conversation which you placed as having occurred about November 12th? [789]

A. I don't recall anything other than what I have stated.

Q. Very well.

When did you next have a conversation with Mr. Gordon Hammond respecting this Union?

A. After November 16th.

Q. After November 16th? A. Yes.

Q. That is, after you had taken your oath to the Union? A. Yes, that is right.

Q. And after you had promised not to reveal any of the secrets of the Union; is that right?

A. That is right.

Q. And where did this conversation occur, please?

A. As I recall, in the office building.

Q. You mean at the Boswell plant?

A. Yes.

Q. And in whose office?

A. I don't know. I can't say what office is designated other than Mr. Hammond's office. I am not

(Testimony of E. C. Powell.)

familiar with the other office buildings—the other rooms in that building.

Q. Do you know which office in that building is known as Mr. Gordon Hammond's office?

A. Yes, sir.

Q. And was that the office that you had your conversation in? [790]

A. No, sir. That wasn't the office. It was in the same building, but not that room.

Q. Where is the office located in the building in which you had your conversation, with respect to Gordon Hammond's office?

A. It is on the South side, the left—the book-keeping department—the room to the left of the bookkeeping department.

Q. Is it directly next to Gordon Hammond's office?

A. No, it is on the opposite end of the building.

Q. It is on the opposite end of the building.

And you don't know whose office it is?

A. I don't.

Q. Do you know which office in that building is Mr. Louie Robinson's office?

A. Well, I think I do.

Q. Was it in Mr. Louie Robinson's office?

A. It was not.

Q. When did this conversation take place?

A. I don't recall.

Q. I think you said sometime after November 16th; was that your answer?

A. Yes.

(Testimony of E. C. Powell.)

Q. Was it before 10:00 o'clock in the morning on November 18th? [791]

A. I don't remember.

Q. Well, can't you tell us whether it was before or after you left the Boswell property on the morning of November 18th?

A. I had a conversation with Mr. Hammond after—or before the run-off on the morning of the 18th.

Q. I am talking about the conversation you have been calling our attention to as having taken place in the office building.

When did that one occur?

A. I recall having two or three conversations with Mr. Hammond in the office building.

Trial Examiner Lindsay: The one he is talking about is the one that took place, as you said, right after the 16th, is that right?

Mr. Clark: That is correct, Mr. Examiner. And I would like to call the witness's attention to the fact that he has specifically referred, now, to conversations with Mr. Hammond on this subject matter, that is, concerning the Union, on November 1st, about November 1st, about November 6th, and about November 12th. And I am asking him for the next one; and he placed it at sometime after November 16th.

Q. I would like you to give the date to us as nearly as you can?

(Testimony of E. C. Powell.)

A. After November 16th—it might have been the day after or the day—within a few days after November 16th.

Q. Well, can you tell, Mr. Witness, whether or not this [792] conversation to which you now refer—

A. (Interrupting): I can't tell you.

Q. Just a moment, please.

Which is the fourth, or the sixth or the eighth, more or less, you told us about, took place before or after 10:00 o'clock of the morning of November 18th? A. I don't remember.

Q. You don't remember?

A. I don't remember.

Q. Now, that is the best you can do for us in fixing the time, is that right?

A. Well, I would say I don't think it was before 10:00 o'clock that morning, because I had driven a pick-up on November 16th belonging to the Company to this Union meeting, and I didn't feel very well the next morning, and I didn't think I would go to work; and I believe it was after 10:00 o'clock that I went to work that morning, if I recall it.

Q. Are you telling us, then, in effect, that the conversation took place, as nearly as you can remember it, after 10:00 o'clock on the morning of November 17th, it being the day after the November 16th meeting?

A. As I recall it now, it was after that time.

Q. Well, do I understand that it took place on November 17th?

(Testimony of E. C. Powell.)

A. It might have. I don't know. After November 16th. I think it was the next day. I am not positive. I am positive [793] I had a pick-up truck, and I didn't go to work until later in the day that morning. As I recall it, I didn't go to work before 10:00 o'clock.

Q. Do you think the conversation with Mr. Gordon Hammond to which you now refer took place shortly after 10:00 o'clock on the morning of November 17th, 1938, that is, the day after your Union meeting of November 16th?

A. That conversation could have been the next day. It might have been that day. I don't recall whether it was that same day or not.

Q. Do you mean it could have been after 10:00 o'clock on the morning of November 18th?

A. I don't think so. It could have been.

Q. What is your best recollection on it?

A. I think it was that day.

Q. You think it was the 17th? A. Yes.

Q. All right.

And you think it was shortly after 10:00 o'clock, is that right? A. Yes.

Q. And it was with Mr. Gordon Hammond, was it? A. I am sure.

Q. At any time during that conversation, did you see Mr. Prior or Mr. Martin or Mr. Farr in the administration building [794] of the Company?

A. I heard they were down there. I didn't see them.

(Testimony of E. C. Powell.)

Q. And from whom did you hear that?

A. I don't recall.

Q. Have you any recollection of hearing that from anyone? A. I don't recall.

Mr. Mouritsen: I object to that as already asked and answered.

Mr. Clark: You don't recall. All right.

Q. Of course, no one else was present at this conversation, is that true?

A. No. Never no one present at those conversations, as I said before.

Q. Will you tell us, Mr. Powell, what information, if any, you gave to Mr. Gordon Hammond on this occasion concerning the Union which you joined the preceding evening?

A. I told him I had become a member of the Union, and I couldn't reveal any more secrets.

Q. I see.

Did he insist that you reveal something about it?

A. He said it wouldn't matter. He said it was all "pooney", a bunch of fellows claiming something they couldn't back up, and after I found it was that way, I came around.

Q. Are you sure about that conversation, about it being all "hooney" and being started by a bunch of fellows that can't [795] back it up, that it took place the morning of the 17th, or wasn't that several days after the 18th on an entirely different occasion?

Mr. Mouritsen: May I have that question read? They are so compound, Mr. Examiner, that I hate to interrupt—

(Testimony of E. C. Powell.)

Mr. Clark (Interrupting): I will submit it, Mr. Examiner.

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, set forth above.)

The Witness: As I recall that expression being made two or three times, two or three different meetings about it being "hooley."

Q. (By Mr. Clark): Were there two or three of these conversations between you and Mr. Gordon Hammond at which he in substance or effect said to you it didn't make any difference to him whether you joined the Union, that it was all "hooley" anyway, and that it was simply a bunch of fellows doing something they couldn't back up, and after you found out about it, you could come back?

Mr. Mouritsen: I object to that as a compound question.

Mr. Clark: I am trying to give the gist of the conversation.

Trial Examiner Lindsay: If the witness understands it, he may answer.

The Witness: Well, he was referring to come back and let [796] him know. I hadn't gone any place at that time. I don't know what the interpretation of that meeting would be. I was still there.

Mr. Clark: I don't think you do understand the question, so let me direct your attention to part of the transcript of yesterday.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: Again, I kindly request the attorney to simplify his questions so that they are understandable.

We will have a ten minute recess.

(At this point, a short recess was taken, after which proceedings were resumed as follows:) [797]

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Now I would like to refer you, Mr. Mouritsen, to page 627, line 18, of the transcript in this case, over to line 11, page 629.

Mr. Mouritsen: I have it.

Q. (By Mr. Clark): Mr. Powell, will you please just read to yourself the part I have indicated, from line 18, page 627, over to line 11, page 629.

A. (Examining document).

Q. Just down to line 11, Mr. Powell.

A. (Examining document).

Q. Now, have you read the portion of the transcript I have called your attention to?

A. Yes, sir.

Q. I will ask you whether or not on yesterday, May 24, 1939, in this proceeding, the following questions were asked you by Mr. Mouritsen, and whether you gave the following answers, commencing at page 627, line 18:

“Q. Now, what was the approximate date of the conversation that you had with Mr. Gordon

(Testimony of E. C. Powell.)

Hammond after November 18, 1938, and after Clyde Sitton told you that Hammond wanted to see you?

“A. I place it around the 20th.

“Q. Of what month and of what year?

“A. November, 1938. [798]

“Q. And where did you see Mr. Hammond on that occasion?

“A. It was in the main office building.

“Q. Was anyone else there other than yourself and Gordon Hammond?

“A. Not within hearing.

“Q. Will you state what you said to Mr. Hammond and what Mr. Gordon Hammond said to you?

“A. Mr. Hammond said, ‘Coon,’ he says, ‘I haven’t got anything against you.’

“Mr. Clark: May I have that read back, Mr. Examiner. I can’t follow it.

“(The record referred to was read by the reporter, as set forth above.)

“The Witness (Continuing): —‘You can go back to work if you want to.’

“I said, ‘Well, I would be afraid to go back to work after the fellows did what they did the other day.’

“He said, I need not worry about that, that he would go out there and tell those fellows to lay off and they would do so.

(Testimony of E. C. Powell.)

“Q. (By Mr. Mouritsen): Did you say anything further at that time?

“A. I told him that I better—I joined the union and I better string along with them, find out what the outcome [799] would be.

“Mr. Clark: May I have that answer re-read?

“Mr. Mouritsen: ‘I joined the union, I better string along with them, find out what the outcome would be.’

“Mr. Clark: Is that the answer?

“The Witness: That is the answer.

“Q. (By Mr. Mouritsen): Did Mr. Hammond say anything further after you told him you were going to string along with the union?

“A. He said, ‘After I find out that it was all “hooley”—‘that a bunch of fellows claiming something they couldn’t back up, after I found out it was all “hooley,” I would come back, and if there was anything there, he would give it to me.’ ”

Q. Now, were those questions asked you yesterday and did you give those answers?

A. In relation to that, yes, substantially.

Q. Well, weren’t the questions asked you and weren’t the answers given by you just as I read them and as the reporter took them down?

A. Evidently they were, in substance; it is that way.

Q. Yes.

(Testimony of E. C. Powell.)

As a matter of fact, the conversation which you told us just before the recess this morning took place according to your recollection on or about November 17th, some time after [800] 10:00 o'clock, in fact took place on November 20th, isn't that true?

Mr. Mouritsen: May I have that question read, Mr. Examiner? I must object to these long and involved questions. There are several questions in one. I can't follow counsel myself. I don't know whether I should interpose an objection or not.

Mr. Clark: I am sorry. That is the only way I am able to examine a witness, and I don't know any other way to do it, particularly with a witness who is like this. I will submit the objection and take the Court's ruling.

Trial Examiner Lindsay: May I have the question, please?

(The record referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to the question upon the ground it is confusing, misleading and unfair.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Well, I feel this way about it, that the cross-examination was regarding a conversation on November 17th. Now, on his direct examination there was also a conversation held on or about the 20th, following the conversation of the 17th. If he understands that question, he may answer it.

Now, may I have it read again? [801]

(Testimony of E. C. Powell.)

(The record referred to was read by the reporter, as set forth above.)

The Witness: The next conversation I recall after November 18th was some ten days, more or less, after that Clyde Sitton came to my house and told me that Gordon Hammond wanted to see me, to come down around—he would be in his office around 9:00 or 10:00 o'clock on a certain night—I don't recall just what night it was—about that time—and I, on my way to the office, learned that they were having——

Mr. Clark (Interrupting): Just a minute. I will ask that that go out, may it please the Examiner.

Trial Examiner Lindsay: He may answer.

Mr. Clark: What he learned on the way to his office is immaterial.

Trial Examiner Lindsay: I said he may answer. You may have an exception.

The Witness (Continuing): I learned that they were having a dinner at Tommy Hammond's residence that night. I talked with Kelly Hammond at his home and didn't go down and fill that appointment at that time.

Mr. Clark: May I have the last?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.) [802]

Mr. Clark: Now, may I have my question re-read to the witness, Mr. Examiner?

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: Yes. Read the first question.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I move to strike the answer as not responsive, your Honor.

Trial Examiner Lindsay: Yes. It may go out. Answer the question.

The Witness: I don't recall at that time—it was that particular time.

Q. (By Mr. Clark): Well, did you have a conversation with Mr. Gordon Hammond on the morning of November 17th in the main office at the Boswell plant?

A. On the morning of the 18th I had a conversation.

Mr. Clark: Now, may I please—

Trial Examiner Lindsay (Interrupting): Yes.

Mr. Clark (Continuing): —be allowed to complete my question? I will reframe it.

Q. Did you have a conversation with Mr. Gordon Hammond on the morning of November 17th in the main office at the Boswell plant some time after 10:00 o'clock at which he said to you, in substance or effect, that after you found out that it was all hokey that a bunch of fellows claiming something they couldn't back up, and if you would then come back he [803] would give you a job and—(Pause)

A. I had a conversation with Mr. Gordon as I recall about that time, on the morning of the 17th,

(Testimony of E. C. Powell.)

that I had joined the union, was initiated on the night of the 16th, and that I wouldn't be able to reveal any more union activities. That as I recall, that statement was made, when I found out it was all poeey, that I would come around. I hadn't left the plant at that time at all.

Q. You hadn't what?

A. I hadn't left; still at the plant; still employed at the plant.

Q. So it was before 10:00 o'clock on the morning of the 18th, isn't that right?

A. I didn't say on the 18th.

Q. Well, I said it was before——

Trial Examiner Lindsay (Interrupting): The record shows he said it was on the 17th.

Q. (By Mr. Clark): 10:00 o'clock on the 18th, isn't that true?

Mr. Mouritsen: I object to the question on the ground——

Mr. Clark (Interrupting): I will withdraw the last.

Q. Will you please tell us whether or not you likewise had a conversation with Mr. Gordon Hammond in the main office at the Boswell plant on November 20, 1938, at which he said to you, in substance or effect, that after you found [804] out that it was all hooley and that a bunch of fellows were claiming something they couldn't back up, if you would come back he would give you a job?

A. I had a conversation about that time, in reference to a letter I had received from the company

(Testimony of E. C. Powell.)

asking him what that meant.

Q. Have you that letter? A. Yes.

Q. May I have it?

A. If it is okay with my counsel.

Mr. Mouritsen: May I see it?

(The document referred to was passed to Mr. Mouritsen.)

(The document referred to was passed to Mr. Clark.)

Mr. Clark: Pardon me a moment, Mr. Examiner.
Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark): I will show you, Mr. Powell, the letter which Mr. Mouritsen has just handed me, and you have just delivered to him, which is purportedly from J. G. Boswell Company, by Louis T. Robinson, addressed to Mr. E. C. Powell, Corcoran, California, and dated November 28, 1938, and I will ask you if that is the letter you referred to.

A. (Examining document): That is the letter I referred to.

Mr. Clark: I will ask that it be marked for identification, your Honor.

(Thereupon the document above referred to was received and marked Respondent Boswell's [805] Exhibit No. 6 for identification.)

Mr. Clark: Also may I ask that the envelope in—which was handed me with the letter be marked as part of this exhibit or annexed to it?

Trial Examiner Lindsay: It may be marked as a part of the exhibit.

(Testimony of E. C. Powell.)

Q. (By Mr. Clark): Now I will ask you, Mr. Powell, whether or not you received Respondent Boswell's Exhibit 6 for identification which purports to be a letter addressed to you under date of November 28, 1938, on or about that date?

A. I received that letter, yes.

Q. I see.

Now, are you familiar with Mr. Louis Robinson's signature? A. No, I am not.

Q. Did you sign the return receipt for this letter?

A. A registered letter—I think possibly it was.

Q. I see.

And is this the letter that you, or the document that you referred to in your examination a few moments ago as being your reason for talking to Mr. Sitton?

A. No. That was the reason, the definite date about the time of that conversation.

Q. That is what I mean.

A. In reference to that. [806]

Q. In other words, this is the letter you referred to in your attempt to establish the date of your conversation with Mr. Sitton in which, I believe you told us, he said that Mr. Hammond wanted to see you?

Trial Examiner Lindsay: The——

Mr. Clark (Interrupting): I will withdraw it all.

Trial Examiner Lindsay (Continuing): The answer on that——

(Testimony of E. C. Powell.)

Mr. Clark (Interrupting): I will withdraw it all.

Q. Is this the letter, Mr. Powell, which you referred to in connection with your attempt to establish the date of your conversation with Mr. Sitton?

A. That is not the letter to establish the date with Sitton; the conversation I had with Mr. Hammond in his office that I described in reference to this letter, what the meaning of this letter was.

Q. All right.

This is the letter then that you referred to in attempting to establish the date of your conversation with Mr. Gordon Hammond, then? A. Yes.

Q. Is that right? A. Yes. [807]

Q. And is that the conversation in which Mr. Gordon Hammond made reference about the Union being "hooey?"

A. He didn't have a thing against me, that I could come back to work. I referred to that letter, asked him if he ordered the sending of that letter.

Q. During that conversation, is that right?

A. Yes.

Mr. Clark: We will offer the letter and envelope in evidence, your Honor, and ask that it be marked.

Trial Examiner Lindsay: It has been marked for identification. All you have to do is to offer it.

Mr. Clark: I offer it in evidence.

Mr. Mouritsen: No objection.

Trial Examiner Lindsay: Received.

(Thereupon, the document above referred to was received in evidence and marked as Respondent Boswell Company's Exhibit No. 6.)

United States
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vs.

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TELEPHONE EXCHANGE,
Respondents.

Transcript of Record

In Seven Volumes

VOLUME IV

Pages 1451 to 1938

FILED

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Upon Petition for Enforcement of An Order of the
National Labor Relations Board

No. 10148

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National Labor Relations Board

(Testimony of E. C. Powell.)

BOSWELL'S EXHIBIT No.6

(Envelope)

J. G. Boswell Company,
Corcoran, California

Registered Mail Return Receipt Requested.

Addressed to: Mr. E. C. Powell, Corcoran, California.

(Stamped): Registered No. 535.

(Stamped on Reverse Side): Corcoran, Calif.,
Nov. 28, 1938.

Home Office,
Los Angeles, California

J. G. BOSWELL COMPANY
Cotton Merchants and Manufacturers
of Cottonseed Products

Corcoran, California

November 28, 1938.

Registered Mail Return Receipt Requested.

Mr. E. C. Powell,
Corcoran, Calif.

Dear Sir:

The last job you had with this Company was in the capacity as helper in the Warehouse. As you know, this was Fred Armenta's regular job but at that time he was not working because of injury. Fred Armenta has now recovered and has gone back

(Testimony of E. C. Powell.)

on his regular job and we will not need your further services at this time.

You may secure your closing pay check by calling for same at the usual place in our Corcoran office.

Yours very truly,

J. G. BOSWELL COMPANY
LOUIS T. ROBINSON

[Endorsed]: Filed 5/25/39.

Q. (By Mr. Clark): Now, I call your attention, Mr. Powell, to the fact that this letter is dated November 20th, 1938, and that the envelope is post marked November 28th, 1938, at Corcoran, and after calling your attention to those facts, I will ask you whether or not the conversation with Mr. Gordon Hammond, to which you refer, did not occur after November 28th instead of on November 20th?

A. One conversation after November 28th, after I received [808] that letter.

Q. Yes.

Well, is it your testimony that also at this conversation after November 28th, the same comments with respect to the Union being "hooey" and simply being a bunch of the fellows claiming something they couldn't back up, were made by Mr. Hammond?

A. There was expressions to that effect made, yes, after November 28th.

Q. All right.

So that, if I understand your testimony correctly, Mr. Witness, that expression or substantially it,

(Testimony of E. C. Powell.)

was made to you by Mr. Hammond on the morning of November 17th, on or about November 20th and also sometime subsequent to November 20th, is that right?

A. The expressions were made several times by Mr. Gordon Hammond.

Q. And each one of those conversations was a separate and distinct occurrence, is that true?

A. I would think so.

Q. All right.

You have told us you never gave any information to Mr. Gordon Hammond concerning the Union after your conversation of November 12th with him, is that true?

A. Not revealing any Union activities. [809]

Q. I see.

Trial Examiner Lindsay: I think there should be a correction there. His testimony was after the 16th, November 16th.

Mr. Clark: But the record shows he only talked to Mr. Hammond in this connection on November 12th, and then the next conversation was after November 16th, namely, on the morning of the 17th. That is the point of my question.

(Addressing the Reporter) Were you here when that testimony was taken on cross examination?

The Reporter: I don't remember.

Mr. Clark: May I make a statement, Mr. Examiner?

Trial Examiner Lindsay: How?

(Testimony of E. C. Powell.)

Mr. Clark: May I make a statement in connection with that?

Trial Examiner Lindsay: It isn't necessary right now. The record is the best statement on it.

Mr. Clark: I will ask the statement directly of the witness.

Trial Examiner Lindsay: Just a minute, Mr. Attorney. I have not finished yet.

Would you, if you do not have it in your notes, would you get the other reporter here?

The Reporter: Yes.

(At this point, there was a short interruption pending [810] the arrival of the reporter.)

(Discussion outside the record.)

Mr. Clark: I would like to have the record show, if I may, that I have asked permission of the Court to make a statement concerning the intended purport of the question I have just put to the witness, and I would like the Court's ruling on it.

Trial Examiner Lindsay: I have stated that you may make any statement you wish after I have had read the record on the specific thing that I requested be read. I am not denying you, Mr. Clark, or anyone else, the right to make any statement, but I do have the right to ask that certain testimony be read back to me, and I do not believe anyone has a right to make a statement while I am waiting to have that testimony read.

However, as I said, you may make your statement.

(Discussion outside the record.)

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: We will adjourn until a quarter to 2:00. It is now a quarter to 12:00.

(Thereupon, at 11:45 o'clock A. M., a recess was taken until 1:45 o'clock P. M. of the same date.) [811]

After Recess

(Whereupon, at 1:45 o'clock p. m., the hearing was resumed.)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: The respondents are ready, Mr. Examiner.

Mr. Mouritsen: Ready for the Board.

Trial Examiner Lindsay: Now, this testimony I wanted to get straight in my mind on your question—I am now reading from page 809 of today's proceeding:

“You have told us you never gave any information to Mr. Gordon Hammond concerning the union after your conversation of November 12th with him, is that true?”

Now there is testimony on page 783, questions and answers.

“Q. In other words, after this conversation, which you placed as being about November 6th, you never again gave Mr. Gordon Hammond any authentic information about the union, is that true?”

“Mr. Mouritsen: May I have the question read?”

“Trial Examiner Lindsay: Yes. Read the question.

“(The question referred to was read by the reporter, as set forth above.)

“The Witness: Not after November 16th.

“Q. (By Mr. Clark) Well, you did, then, have further conversations with him at which you gave him information about the union after you had filed this application on [812] November 11th, is that right?

“A. That is right. After I filed the application, but not after I took oath in the membership.”

Now I was confused by the questions. I merely wanted to straighten it out in my own mind.

Now, Mr. Clark, you stated that you wished to make a statement for the record.

Mr. Clark: Yes. The thing I had in mind——

Trial Examiner Lindsay (Interrupting): I had you wait until I had this testimony. I now have it and now, if you wish to make a statement, you may.

Mr. Clark: The thing I had in mind, Mr. Examiner, was this: As I understand Mr. Powell's testimony—I wish he would correct me if I am wrong in this—he has already testified to meetings he claims to have had with Mr. Gordon Hammond relative to this subject matter, on November 1, 1938——

Trial Examiner Lindsay (Interrupting): On or about.

Mr. Clark: I mean that; also on or about November 6, 1938, and also on or about November 12, 1938; but that after November 12, 1938, he never had any meeting with Gordon Hammond at which he gave any information concerning the union, in view of the fact that the next meeting he testified to was the one of November 17th at which he tells us he told Mr. Gordon Hammond that he had become a member and [813] *and* that he couldn't divulge information from that time on.

That is what I meant by my question, don't you see, to link that fact to November 12th.

Trial Examiner Lindsay: I do not understand the testimony to be that. I think that is where we have been confused.

Mr. Clark: May I ask the witness a question on it, then?

Trial Examiner Lindsay: Now you may ask the question.

Mr. Clark: Very well.

EVAN C. POWELL

the witness on the stand at the time of the recess, having been previously duly sworn, resumed the stand and further testified as follows:

Cross Examination

(Continued)

Q. (By Mr. Clark) After November 12, 1938, Mr. Powell, did you have any conversation with Mr. Gordon Hammond at which you gave him any information concerning this union?

(Testimony of E. C. Powell.)

A. (Pause) After November 12th I had a conversation with Mr. Hammond but not in revealing any information of union activities; after November 16th.

Q. Well, do I understand then that between the conversation of November 12, 1938, and November 16, 1938, you did have further conversations with Mr. Hammond?

A. After November 11th, yes, on or about the 12th I had a [814] conversation with Mr. Hammond.

Q. All right.

Now, did you have any conversations with Mr. Hammond on this subject matter, that is, with respect to the union—

A. (Interrupting) Yes.

Q. (Continuing) Wait a minute—after the one on November 12, 1938, and before November 16, 1938? A. Yes.

Q. And when, please?

A. On or about the 12th.

Trial Examiner Lindsay: Between the 12th and the 16th, for instance, on the 13th, 14th, or 15th. Is that the meaning?

Mr. Clark: That is it exactly.

The Witness: The only conversation I recall was after the 11th, on or about the 12th.

Mr. Clark: All right.

Q. Then you did not have any more conversations with Mr. Hammond on this subject matter until the conversation of November 17th at which

(Testimony of E. C. Powell.)

you told him that you couldn't tell him anything more about the union, is that true?

A. Not the 17th. That was on the 18th, the morning of the 18th. [815]

Mr. Clark: May I have the question read to the witness, and may we try to get an answer to it, Mr. Examiner?

Trial Examiner Lindsay: Yes. Now, read the question, please. You just listen to the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I told Mr. Hammond on or about the 12th we had a meeting at Mr. Spear's house on the 11th, and I told him myself and others had made applications.

Mr. Clark: All right.

Q. When was the next time after that that you discussed this subject matter at all with Mr. Gordon Hammond?

A. As I recall, on the morning of the 18th after that.

Q. And was it at the conversation on the morning of the 18th that you told him that you couldn't tell him any more about the Union because you had joined?

A. That is right; that is right. On the morning of the 18th.

Q. All right.

You are positive of that, are you?

A. Positive.

(Testimony of E. C. Powell.)

Q. What time on the 18th, November 18th, 1938, was this conversation with Mr. Hammond?

A. On or about 8:00 o'clock of that morning.

Q. I see. [816]

Was it subsequent to that conversation with Mr. Hammond that you were offered a job, or rather had a job, or, rather, a further job with Boswell and Company? A. No, sir.

Trial Examiner Lindsay: Do you know what subsequent means?

The Witness: Yes.

Mr. Clark: Afterward.

I will reframe the question and withdraw it, Mr. Examiner.

Q. After your conversation with Mr. Gordon Hammond on the morning of November 18th at about 8:00 o'clock, that you have just referred to, did anyone on behalf of Boswell and Company offer you any employment?

A. Yes, they offered me employment under conditions.

Q. Upon what conditions, please?

A. That I would withdraw from the Union and have nothing more to do with it.

Q. And where did that conversation take place?

A. In the main office building.

Q. And when, please?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I won't identify it. If it is the con-

(Testimony of E. C. Powell.)

versation we all think it is, I won't go into it. I will drop it. [817]

Q. When, please?

A. Somewhere about the first Monday in December, if I recall correctly.

Q. Is this the conversation with Mr. Gordon Hammond which you placed as being about ten days after November 18th, at which he made the remark about the Union being "hooey?"

A. Something like that.

Q. Have you already told us all about this conversation that you are now referring to? Or do you have something new to add to it?

A. I may possibly have. I have gone into it so many times that I don't recall.

Q. Well, let us see if we can't locate this, and find out whether it is a new conversation or not.

You say that it took place about the first Monday in December, 1938; is that so?

A. That is one of the conversations, yes.

Q. Where?

A. In the main office building.

Q. Who was present? A. Mr. Hammond.

Q. Anyone else? A. Not within hearing.

Q. And in whose office?

A. In the office just to the left of the bookkeeping depart- [818] ment.

Q. Was it Mr. Hammond's office?

A. No, sir.

Q. Mr. Louie Robinson's office?

A. No, sir.

Q. Do you know whose office it was?

(Testimony of E. C. Powell.)

A. I think a party by the name of Mr. Kiefer has an office there, or does business there. I am not positive, but I think Kiefer, McKiefer.

Trial Examiner Lindsay: Let us not go over the same things so many times.

Mr. Clark: I am trying not to, Mr. Examiner.

Trial Examiner Lindsay: You have asked and he has answered those specific questions before.

Now, I want, of course, all of the questions regarding the facts asked, but let us not go over them so many times. It is taking too much time and it isn't serving any purpose.

Mr. Clark: Well, Mr. Examiner, it isn't my wish to prolong this cross examination, but this gentleman now, as the record will show, has mentioned a conversation which I am not at all sure was touched upon on direct examination or the cross so far. Now——

Trial Examiner Lindsay (Interrupting): You asked those specific questions on cross examination just before we stopped to look up the record, and described that office as being [819] just to the left of the bookkeeping department. You asked if it was Mr. Hammond's office. You asked if it was Mr. Louie Robinson's office. That has all been gone over, Mr. Clark. [820]

Mr. Clark: Not with respect, Mr. Examiner—with the utmost deference to you—not with respect to any conversation that took place on the 1st of December or thereabouts.

Trial Examiner Lindsay: All right. Proceed.

(Testimony of E. C. Powell.)

Mr. Clark: And this is the first time Mr. Kiefer has been mentioned.

Trial Examiner Lindsay: I grant that, but the rest has been gone over. But go over it again if you think it is necessary.

Q. (By Mr. Clark) Now, what, if anything, did Mr. Hammond say to you on this occasion you are now referring to?

A. I think he mentioned and wanted to know how I was getting along, what I was eating, and how I was living, and if the union was doing anything for me.

Q. What did you say to that?

A. I told him I was existing and hadn't starved yet.

Q. What else, if anything, was said?

A. I don't recall anything else at this time.

Q. Is that the last time you ever had a conversation with Mr. Hammond about your being employed at Boswell?

A. I think so. I am not positive, but I think that was the last conversation of that nature I had.

Q. Did he offer you a job on that occasion?

A. I believe he did, under condition.

A. All right. You speak of certain conditions. Will you [821] please state what he said in that regard?

A. Discontinue any union activity and membership and anything I could find to do down there I could have.

(Testimony of E. C. Powell.)

Mr. Clark: May I have that read back, Mr. Examiner? I didn't get the last of it.

Trial Examiner Lindsay: Yes, read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark) Now, is that all Mr. Hammond said in that regard at that meeting?

A. All I recall at that meeting at this time, yes.

Q. What did you reply to that?

A. I told him I joined the union and I would string along with them and see what was going to develop.

Q. Isn't that the same conversation that you have referred to already in your direct examination?

Mr. Mouritsen: I object to that as vague and indefinite. That has been gone into a number of times. There are a number of conversations that the witness has been referred to on his direct examination.

Mr. Clark: I would like to know if it was the same or a different one.

Trial Examiner Lindsay: Sustained. You may reframe your question.

Q. (By Mr. Clark) Have you told us about this conversation [822] before just now?

A. On the same subject. We had other conversations at different times along that line.

Q. I am asking you about this particular conversation which you place as being on the first Monday in December of 1938. Did you testify to that on your direct examination?

(Testimony of E. C. Powell.)

Mr. Mouritsen: I object to that as already asked and answered.

Mr. Clark: Submitted.

Trial Examiner Lindsay: He may answer.

The Witness: (Pause)

Mr. Mouritsen: I add the further objection that the witness is undoubtedly unfamiliar with the terms of cross examination and direct examination. I request that he be instructed in that matter.

Mr. Clark: I will reframe the question to meet that objection.

Q. During your testimony here in this proceeding, Mr. Powell, have you told us about this conversation which you place as having taken place on Monday—on the first Monday in December, 1938, at any time before this afternoon?

A. I have a check stub that I can definitely refer you to at that meeting.

Mr. Mouritsen: I move that the answer be stricken since [823] it indicates that the witness does not understand the question and, therefore, it is confusing.

Mr. Clark: May we have it read?

Trial Examiner Lindsay: It may be stricken.

Mr. Clark: May we have the question read?

Trial Examiner Lindsay: Yes.

I think there are so many meetings here that he has testified about that if you would be specific in your questions that we would get along much faster.

(Testimony of E. C. Powell.)

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to the question. No wonder the witness is confused about the matter.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: I am going to sustain the objection to the question.

Q. (By Mr. Clark) Mr. Powell, did I understand you to tell us this morning that you did not learn that Mr. Martin had become a member of this union until the time you attended the meeting of November 16th, 1938?

A. Definitely no. I didn't.

Q. That is the first time that you learned that Mr. Martin had become a member of this union, is that right?

A. It is. I heard he had before that.

Q. What is that? [824]

A. I had heard he had been a member, but I didn't know it.

Q. You didn't know it. Why was it, then, that you made the application which is in evidence in this case? A. (Pause)

Q. Why was it that you made the application which is marked Boswell's Exhibit 5 and which you have told us you signed on November 11, 1938, in Mr. Martin's presence, and have him put the name of the union on it and turned it over to him?

A. Yes. [825]

(Testimony of E. C. Powell.)

Q. I say, why was it?

A. Well, I was interested in the application and Mr. Martin was handling that, the secretary and treasurer's duties, applications, and those interested in applications, and he was writing them up.

Q. Well, at that time, then, November 11th, you did know that Mr. Martin was secretary-treasurer of the Union, didn't you?

A. Not to my own satisfaction. I was informed he was.

Q. By whom were you so informed?

A. By the membership, supposed membership.

Q. And what particular individuals can you call to mind?

A. I don't recall any particular individuals.

Q. At any rate, you filled out your application to join the Union and handed it to Mr. Martin?

A. That is right.

Q. On that occasion, didn't you?

A. Yes, sir.

Mr. Clark: That is all.

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Powell, I believe yesterday Mr. Clark asked you whether or not you obtained a divorce from your first wife. Do you recall the question? A. Yes, I do.

Q. And at this time I will ask you, Mr. Powell, if your first [826] wife obtained a divorce from you?

A. She did.

(Testimony of E. C. Powell.)

Q. Now, upon your cross examination at the preliminary examination before the City Judge here in Corcoran, at which the District Attorney was present—that was referred to, do you recall that?

A. Yes.

Trial Examiner Lindsay: Do you know what a preliminary examination is?

The Witness: Yes.

Q. (By Mr. Mouritsen) You recall being present before the judge and the District Attorney being present at that time, is that correct?

A. Yes, sir.

Q. I believe you stated also that at that time you were ill, is that correct? A. Yes, sir.

Q. At that time, or subsequent to that time, did you make any request that medical attention be furnished you by the authorities here in Corcoran?

A. Not in Corcoran. I did in Hanford.

Q. You were kept in the County Jail at Hanford, is that correct? A. Yes, sir.

Q. Did you request the County authorities there to furnish [827] you medical attention?

A. Yes, sir.

Q. How many times did you make such a request, if you recall?

A. Continuously during the first day.

Mr. Clark: I can't hear him. I can't follow him.

Trial Examiner Lindsay: "Continuously during the first day."

Mr. Clark: Continuously?

(Testimony of E. C. Powell.)

Q. (By Mr. Mouritsen) On the first day, was medical attention furnished you by the County authorities at Hanford? A. It was not.

Q. Kings County? A. It was not.

Q. After that first day—no, strike that.

When you say the “first day”, do you refer to the first day when you were placed in the County Jail?

A. Yes, sir.

Mr. Clark: May I have the date fixed with respect to the preliminary hearing?

Trial Examiner Lindsay: Yes.

Was that the day following the preliminary hearing?

Mr. Mouritsen: I object to the question, Mr. Examiner, on the ground the form is improper.

Trial Examiner Lindsay: Well, you may ask him. [828]

Q. (By Mr. Mouritsen) Mr. Witness, will you tell us——

Mr. Clark (Interrupting): Mr. Examiner, may I make a statement? There is no question from me to which an objection would lie. I simply requested to have the date fixed.

Trial Examiner Lindsay: There isn't any question.

Q. (By Mr. Mouritsen) Will you state whether or not, Mr. Witness, the preliminary hearing was held upon the first day that you were placed in the County Jail at Hanford? A. Yes, sir.

(Testimony of E. C. Powell.)

Mr. Mouritsen: I didn't intend to be discourteous, Mr. Examiner.

Trial Examiner Lindsay: That is all right.

Mr. Mouritsen: I thought the witness might be misled by the Examiner's question, which is why I made the objection.

Q. Now, after that time—strike that.

I believe you stated that you asked continuously for medical attention on the first day, is that correct? A. Yes.

Q. After that day, did you make any further requests for medical attention? A. I did.

Mr. Clark: I object to that upon the ground no proper foundation has been laid. The question is ambiguous, it is indefinite as to persons to whom a request was made, and calls for hearsay as to all of these Respondents, and also [829] is indefinite as to the time. I am not going to object to this being gone into if the date is definitely fixed with respect to the date of the preliminary hearing, and if this witness can tell of whom he made the requests, if not by name, then by position.

Trial Examiner Lindsay: Well, he may proceed with the examination.

Mr. Mouritsen: Mr. Examiner, I must first ascertain whether or not the requests were made before I can lay my foundation.

Trial Examiner Lindsay: Yes, proceed.

Mr. Clark: I also object to the manner in which counsel for the Board is examining this witness on

(Testimony of E. C. Powell.)

redirect examination, namely, that each and every question is a leading and suggestive question, and I interpose that objection to the last question put to the witness.

Trial Examiner Lindsay: I think the questions are all right. Proceed.

Q. (By Mr. Mouritsen) Do you recall the question, Mr. Powell? A. Yes.

Q. Will you please answer?

A. The following day. [830]

Q. And to whom did you make such a request on the following day?

A. The turnkey of the jail. I only know him by a nickname.

Q. What is his nickname?

A. I don't recall it right now.

Q. And you recall what time during the day you made the request?

Mr. Clark: Objected to upon the ground that no proper foundation has been laid, the date has not been specified.

Trial Examiner Lindsay: The following day after he was in. We have the record here.

Mr. Mouritsen: It is in evidence before the hearing.

Trial Examiner Lindsay: Proceed with the examination.

Mr. Clark: Very well.

The Witness: Early the next morning, and several times during that day.

(Testimony of E. C. Powell.)

Q. (By Mr. Mouritsen) On the first occasion what did you say to the turnkey?

Mr. Clark: Objected to; incompetent, irrelevant and immaterial, hearsay as to the respondents, and in no way binding upon any respondent in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: I told him I was seriously ill and also my cellmate told him I needed medical attention. He said he would see about it but he didn't. [831]

Q. (By Mr. Mouritsen): And from time to time during that same day did you make a similar request?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

The Witness: Yes.

Q. (By Mr. Mouritsen) While you were placed in the jail in Hanford, did you ever receive medical attention?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; probative of no issue in this case, and in no way binding upon any of the respondents.

Trial Examiner Lindsay: He may answer.

The Witness: On the third day after I was placed in jail I did.

Q. (By Mr. Mouritsen) After that time did you ever have any conversation with Roger Walch re-

(Testimony of E. C. Powell.)

garding the plea that you were to enter at your hearing?
A. Yes, sir.

Q. Do you recall how long after that — strike that.

Do you recall how long after you had been placed in jail that you had a conversation?

A. I was in Mr. Walch's office——

Q. (Interrupting) No. Let us fix the time, first, Mr. Powell.

Do you recall how long after you had *been* placed in jail that you had a conversation with Mr. Roger Walch regarding the [832] plea you were to enter when you appeared for trial?

A. About a week after that.

Q. And where did this conversation take place?

A. In his office.

Q. Other than yourself and Mr. Walch, was anyone else present?

A. One of the deputies, I think, who took me over there, was in the office room, but I don't know.

Q. You mean a deputy sheriff or a deputy district attorney?
A. Deputy sheriff.

Q. Other than you three was anyone else present?

A. Not that I recall.

Trial Examiner Lindsay: I think his testimony is that he was not sure the deputy sheriff was in the district attorney's office.

Am I wrong in that?

The Witness: He took me in the district attorney's office, but he was not in the conversation.

(Testimony of E. C. Powell.)

Trial Examiner Lindsay: I see.

Q. (By Mr. Mouritsen) Did he remain in the district attorney's office while this conversation took place? A. Near the office, yes.

Q. Now, will you relate the conversation that took place between you and Mr. Roger Walsh at that time with reference [833] to the plea you were to enter at your trial?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; hearsay as to the respondents in this proceeding, and in no way binding upon any of them; also self-serving and probative of no issue in this proceeding.

Mr. Mouritsen: Mr. Examiner, upon the cross examination an effort was made to impeach the testimony of this witness. I think we are entitled to indicate the circumstances surrounding the conviction of which the defendant has been accused.

Trial Examiner Lindsay: Yes, I would like to know all about it.

The Witness: The district attorney told me that the hearing had been set for a later date before the district judge with a recommendation for probation before Judge J. J. Walker. He told me, of course, that he had advised me before, due to the fact I would have to stay in jail for six months or maybe then it wouldn't come to a hearing, and that I had a wife and children to support, and under the circumstances of the check it was ridiculous for a hearing of that nature to come before any court, and on the recom-

(Testimony of E. C. Powell.)

mendation to the probation judge, J. J. Walker, he would recommend straight probation so I could go ahead and support my wife and children.

Q. (By Mr. Mouritsen) And when you refer to the—strike [834] that.

Did he refer to or explain the circumstances surrounding the check that he referred to at that time?

A. Yes.

Q. Will you state what he said as nearly as you can recall regarding those circumstances surrounding the check?

Mr. Clark: Object to that as incompetent, irrelevant and immaterial; hearsay to the respondents in this proceeding, in no way binding upon any of them; also self-serving.

Trial Examiner Lindsay: He may answer.

The Witness: He said the fellow Bob Carden was a curious customer, that he had several other complaints for the same nature come up before that, bad checks, gambling checks; that I couldn't have made a bond, and I didn't know how long I had to lay over in jail, it would be best, on his suggestion, I make a plea of guilty and ask for probation and that he was confident that Judge Walker was a splendid man and understood problems of that nature and would no doubt grant straight probation.

Q. (By Mr. Mouritsen) In reliance upon that statement by Mr. Walch, did you subsequently at your appearance plead guilty? A. I did.

(Testimony of E. C. Powell.)

Q. And did Mr. Walsh at your formal appearance recommend that you be given leniency? [835]

A. He did not. He recommended that he could have given me five years and I was getting off lucky getting four months.

Mr. Mouritsen: No further questions.

Recross Examination

Q. (By Mr. Clark) Mr. Powell, when your first wife divorced you, as you say, did you receive a copy of any of the papers?

A. Not at that time; later I heard that she got the divorce.

Q. Did you later receive a copy of the complaint or summons in the divorce action?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: I will submit it.

May it please the Examiner, may I have the ruling stricken so I can make a statement first?

Trial Examiner Lindsay: Well, I am not going to deny you the right to make a statement, but I just don't see the purpose of all these statements.

Now as I recall his testimony, the only examination when you went into that question was that when you asked him if he had gotten a divorce from his wife he answered no.

Mr. Clark: That is right.

Trial Examiner Lindsay: Now as I now get this

(Testimony of E. C. Powell.)

testimony, [836] that was only for the purpose of clearing up that answer. Now I just don't understand why we have to continue on these things. He said that the divorce was gotten by his wife. I don't believe we have to go back and rehash a divorce matter in this case.

Mr. Clark: Does your Honor expect me to believe a single word that this man says on the stand?

Trial Examiner Lindsay: Now listen, Mr. Attorney. You are entirely out of order. It is immaterial whether or not you do believe him. After all, that is a matter which is entirely up to other tribunals and asking me a question of that type at this time surely is completely out of order from any attorney.

Mr. Clark: I simply submit that this having been gone into on redirect examination, may it please the Examiner, I have the right to attempt to ascertain the credibility of the witness' answers to Mr. Mouritsen with respect to his wife having obtained a divorce from him. Or, in other words, playing upon that out or that statement in order to explain his blunt statement on cross examination that he had not obtained a divorce from his wife. I think I am entitled to find out what county the proceeding was in, to find out whether he was served with a summons and complaint as he would have to be in this State before the divorce would be legal, so that I may go to the records of that county and [837] search them and see if any such divorce proceeding is pending, because I doubt it very much.

(Testimony of E. C. Powell.)

This witness has been impeached not once, Mr. Examiner, but a dozen times.

Trial Examiner Lindsay: Mr. Attorney, listen.

Mr. Mouritsen: Mr. Trial Examiner, I have seldom heard such an exhibition of statements from an attorney before a trial of this kind regarding a witness. It is entirely out of order and I suggest that the counsel for respondent be admonished in regard thereto.

Trial Examiner Lindsay: I don't—

Mr. Clark (Interrupting): I would like to reply to that, Mr. Examiner.

Trial Examiner Lindsay (Continuing): Now, wait, both of you gentlemen. I am not going to tolerate any more of this. Now if you have been in any of these hearings before—if you haven't, I will tell you now—that at the end of this hearing you have a right to argue these matters before me and that is the time for it. Now I don't want any attorney characterizing anyone's testimony by making statements for the record at this time. There is a proper time for all that sort of thing and you will be given that opportunity. [838]

Then, after you have made the argument, which privilege you will have, then the credibility of a witness in its final analysis will be up to me. We must proceed in an orderly manner, and it is all I am asking for, and statements of those kinds are not only out of order, but serve no purpose. I can read that testimony, and I can analyze it.

(Testimony of E. C. Powell.)

Now, in view of your statement which you have made, that you even doubt that he got a divorce, or rather that his wife got a divorce, which you have made without any foundation, if you wish to question him on that, for that particular purpose, then I will grant you that privilege.

Mr. Clark: That is my only purpose, Mr. Examiner.

Q. Can you tell us what County your wife's divorce was granted in?

A. Alturas, Modoc County, California.

Q. And approximately when, please?

A. I couldn't give you the date. The records show it up there.

Q. Can you give us approximately—

A. (Interrupting) No, I could not.

Q. And can you give us your wife's name, please?

A. Maiden name?

Q. No.

A. She was remarried again and had children by another marriage. I could give you all of that if you wish. [839]

Q. Did she bring the action against you in your name, in your present name, that is, Powell, the name Powell? A. Yes.

Q. Is the name of the action Powell versus Powell? A. That is right.

Q. And have you seen a copy of any papers in that action? A. I did.

Q. And approximately when was that?

(Testimony of E. C. Powell.)

A. Several years—two years or more after.

Q. How many years ago was it, about?

A. Well, we separated when my son was six months old. He will be fifteen years old this coming August, and she obtained a divorce, I think, about two years after separation.

Q. So it was twelve or thirteen years ago, then, as near as you can place it?

A. Somewhere about that.

Mr. Clark: That is all.

Mr. Mouritsen: Nothing further.

Q. (By Mr. Clark) Can you give us her first name? A. Elma Irene Pope Powell.

Q. Alma, A-l-m-a? A. Elma.

Q. E-l-m-a? A. I think that is right.

Q. Don't you know how to spell it? [840]

A. I would not attempt to spell it.

Q. Elma, anyway, Irene—

A. (Interrupting) Pope Powell.

Q. Pope? A. P-o-p-e.

Q. Powell? A. P-o-w-e-l-l.

Mr. Clark: Very well. That is all.

Trial Examiner Lindsay: I have one question.

Q. You have never changed your name, have you?

A. Never.

Trial Examiner Lindsay: All right.

Mr. Mouritsen: Nothing further.

Mr. Clark: I would like to ask one question on recross.

(Testimony of E. C. Powell.)

Recross Examination

(Continued)

Q. (By Mr. Clark) In your examination you referred to a certain day that you asked for a medical examination from the people in the County Jail at Hanford.

Do you have that testimony in mind?

A. Yes.

Q. Was that the day of the preliminary hearing in the case of The People of the State of California against E. C. Powell, the transcript of which has been put in evidence in this proceeding?

A. I had a preliminary hearing right here, and they took me [841] to Hanford that day, and we had another, a routine. They took me to the District Attorney's office that same day.

Q. The record in this case shows, Mr. Powell, that the hearing from which certain testimony was read into the present record was held at Corcoran on February 18th, 1938.

Now, was it on that day that you made these requests for medical attention you have told us about?

A. On that day that they took me to Hanford.

Q. That is the day upon which you testified before the City Judge in Corcoran, is that true?

A. That is right.

Q. That was the first day after you had been returned from San Bernardino?

Mr. Mouritsen: Objected to.

(Testimony of E. C. Powell.)

Mr. Clark: I want to be sure he understands it.

The Witness: I don't understand it.

Q. (By Mr. Clark) Was that the first day after which you had been returned to Kings County from San Bernardino?

A. The first day I was returned, I stayed here from nearly 2:00 o'clock in the night—maybe later—until sometime that afternoon.

Q. Was that the day upon which you made these requests for medical attention?

A. Yes, when I was in jail over there.

Q. You mean after you had been taken to Hanford on that day? [842] A. Yes.

Q. Do you remember the name of the turnkey to whom you made those requests?

A. They called him "Stoolie."

Q. Stoolie? A. Yes.

Q. That is the only name you know him by?

A. Yes.

Mr. Clark: That is all.

Trial Examiner Lindsay: Witness excused.

(Witness excused.)

Mr. Mouritsen: Call Mr. Gilmore.

JAMES WILLIAM GILMORE,
a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Mr. Mouritsen: Mr. Examiner, at this time I

(Testimony of James William Gilmore.)

move to amend the complaint in this matter to read as follows: Paragraph 8 thereof:

“On or about March 20th, 1938, Respondent discharged——”

Trial Examiner Lindsay (Interrupting): Just a moment. What paragraph?

Mr. Mouritsen: Paragraph 8.

Mr. Clark: Will you wait until we get our copy out?

Mr. Mouritsen: Yes. [843]

Mr. Clark: All right.

Mr. Mouritsen: So that Paragraph 8 will read as follows:

“On or about March 20th, 1938, Respondent discharged James W. Gilmore and on or about July 1st, 1938, refused to reinstate said James W. Gilmore.”

Mr. Clark: You mean prefacing the language that is there now; is that right?

Mr. Mouritsen: Just a moment, Mr. Clark. Yes. And it will continue with the present paragraph 8 which is:

“On or about November 17th, 1938, Respondent discharged W. R. Johnston, Stephen J. Griffin and Elmer Eller, and on or about January 30th, 1939, discharged Eugene Clark Ely, because said employees joined and assisted the union and engaged in concerted activities with other employees for their mutual aid and protection.”

(Testimony of James William Gilmore.)

Mr. Clark: May I have that language so I can copy it, Mr. Examiner?

Trial Examiner Lindsay: Yes. This is off the record a second.

(Discussion outside the record.)

Trial Examiner Lindsay: All right. Proceed.

Mr. Mouritsen: Before that is ruled upon, Mr. Examiner, I didn't quite correctly state the addition I intended to make to Paragraph 8, and will now re-state the preface that [844] I desire to add as an amendment to Paragraph 8. [845]

Mr. Clark: Will you read it slowly enough for me to follow and copy?

Mr. Mouritsen: Yes.

“On or about March 20th, 1938, Respondent discharged James W. Gilmore and on or about July 1st, 1938, refused to reinstate said James W. Gilmore because he attempted to organize the employees of the company; and on or about November 17th, 1938”—

and continuing with the present paragraph 8.

May I state, Mr. Examiner, that an allegation similar to the one I have outlined as an amendment is contained in the fourth amended charge and was through inadvertence omitted from the amended complaint.

Mr. Clark: May I have a minute to check the fourth amended charge?

Mr. Wingrove: Paragraph 2.

(Testimony of James William Gilmore.)

Mr. Clark: To which we object, may it please the Examiner, on the ground that the motion to amend comes too late as it was not served upon the respondent J. G. Boswell Company or the other respondents in this matter within any reasonable time prior to the commencement of this hearing.

I might add, too—although I am not stating this of my own knowledge. Mr. Wingrove tells me—that this gentleman, that is, Mr. Gilmore, that the subject of this amendment was in the first charge, that is, the charge of July 17, 1938, which was later dismissed on recommendation of [846] Mr. Larson of the National Labor Relations Board.

Is that your understanding, Mr. Wingrove?

Mr. Wingrove: That is my belief.

Trial Examiner Lindsay: Yes.

Well, in accordance with the Rules and Regulations of the National Labor Relations Act, the amended amendment is granted. However, the Respondent has five full days from the date hereof in which to answer this amendment to the complaint, and if the Respondent so desires, the testimony of Mr. Gilmore will not be taken until after the expiration of five full days.

Mr. Clark: Well, speaking for the Respondents, Mr. Examiner, I think I will have to insist on that and ask that Mr. Gilmore's testimony taken thus far be stricken from the record, and that we be allowed to file a formal answer to the amendment now made to the fourth amended complaint—rather,

(Testimony of James William Gilmore.)

the amended complaint, and then the witness be recalled.

Trial Examiner Lindsay: That may be granted. The testimony of this witness will be stricken from the record, and the Respondent will have five full days in which to file any answer to the amendment, and after that has expired, then this witness will be recalled.

(Thereupon, the Witness Gilmore was withdrawn from the witness stand, and his testimony was physically stricken from the record on the request of Respondents' counsel.) [847]

Mr. Clark: May it please the Examiner, may I ask that we be given leave, and I think this is left in your Honor's discretion, to file the original of our answer to this amendment with your Honor and then have it made a part of the record in this case, together with the other pleadings already admitted in evidence.

Trial Examiner Lindsay: I am not sure that I quite follow you.

Mr. Clark: Ordinarily I have to send it to the Regional Director. I simply want to file it with you and have it go into the evidence here.

Trial Examiner Lindsay: May I explain, Mr. Clark?

The Regional Director has nothing to do with this hearing now.

Mr. Clark: I wanted to be certain of that.

Trial Examiner Lindsay: Everything that is done must be done here.

Mr. Clark: I will file it with you.

Trial Examiner Lindsay: Yes, that is where it must be filed.

Mr. Wingrove: We must file only that portion to Paragraph 8?

Trial Examiner Lindsay: Yes. And you may make the answer by making an oral statement, if you desire, or it may be written, but it must be made to me and no one else; and it [848] will become part of the record, naturally.

Is there any other question about this amendment, or the answer to it?

Mr. Clark: None from us.

Trial Examiner Lindsay: We will take a fifteen minute recess.

(At this point, a short recess was taken, after which proceedings were resumed as follows: [849])

Trial Examiner Lindsay: I think, if you gentlemen wish to—it is quite warm in here—there will be no objection on my part if you feel like removing your coats.

Now, was there something you wished?

Mr. Clark: Yes, Mr. Examiner. I wonder whether we could simply have written up, informally by the reporter, the testimony of the witness who just testified. I realize it is stricken from the

record, and I agreed that it be stricken physically, but we may want it in connection with his cross examination when he next takes the stand, and rather than at that time asking the reporter to go back in his notes and get it, I wonder if he could write it now and furnish us with it because it is, don't you see, no matter whether stricken or not, a statement made under oath by the witness and it would be an admission which could be used as impeachment.

Trial Examiner Lindsay: I have no objection, but it was at your suggestion that I ordered it physically stricken.

Mr. Clark: I think that is the best way for the record. I am only asking for separate pages to be written up, and that we get a copy of it.

Trial Examiner Lindsay: Well, that is a matter which is entirely up to the reporter; if he wants to write it up he may, but now, you having said that you wanted it physically out of the record, it is, in fact, not a part of the [850] record, any of his testimony.

Mr. Clark: Is that satisfactory, Mr. Mouritsen?

Mr. Mouritsen: I have no objection.

Trial Examiner Lindsay: Then it may be done that way.

Now there is one other matter other than the statement amending the complaint which you took down, as I understand it, in longhand, Mr. Clark—

Mr. Clark: Yes, sir.

Trial Examiner Lindsay: Is it your desire to

have a formal copy of the amendment to the complaint served upon you?

Mr. Clark: No, I don't care about that. I have it.

Trial Examiner Lindsay: You deem that is a service of the amended complaint?

Mr. Clark: Yes, and I will stipulate that the complaint may be amended on its face.

Mr. Mouritsen: That is acceptable.

Mr. Clark: In that regard, subject to my objection, of course, that I first made.

Trial Examiner Lindsay: Oh, yes.

Mr. Clark: I am only talking about the mechanics.

Trial Examiner Lindsay: That has been covered by complying with the rules and regulations as to the five-day period.

Mr. Clark: Yes. [851]

Mr. Prior: Mr. Examiner, at this time I would like to ask to be excused until tomorrow noon, in as much as I have received a request to attend an important meeting in Long Beach tonight, and it will be necessary for me to leave very shortly to make the appointment.

Trial Examiner Lindsay: Yes. You may be excused, Mr. Prior.

Mr. Prior: Thank you.

(At this point, Mr. Prior left the hearing room.)

Mr. Mouritsen: Call Mr. Spear.

L. A. SPEAR,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): What is your name, Mr. Spear?

A. Spear; L. A. Spear.

Q. And where do you reside?

A. 1419 Brokaw Avenue.

Q. Have you ever worked for J. G. Boswell Company? A. I have.

Q. When did you first start to work for that Company?

A. About—sometime in July, '28.

Q. In the year 1928? A. Yes, sir. [852]

Q. And what type of work did you start to do for the Company at that time?

A. I don't remember the type of work I first started to do. I was hired as a ginner, and got paid as a ginner.

Q. What—did you work continuously for the Company from 1928 to the year 1938? A. No.

Q. Were there any periods during that time when you were not employed by the Company for more than say, a month?

A. When I was not employed?

Q. As long as a month?

A. Yes, there was times.

Q. You recall the first occasion when you were

(Testimony of L. A. Spear.)

not employed by the Company for a period in excess of one month? A. I do.

Q. When was that? A. '31.

Q. And how long were you not employed by the Company at that time?

A. For a period of about three months.

Q. Other than that occasion, in 1931, have there been any other occasions upon which you have not been employed by the Company for periods longer than a month? A. Yes.

Q. What was the next occasion? [853]

A. I think a period—there was a time in '32, about the same period of time.

Q. About three months, is that correct?

A. About three months.

Q. And after that time in 1932, has there been any other occasion when you were not employed for a period as long as a month?

A. There was.

Q. When was the next occasion?

A. Well, I don't remember whether it was in the Spring of '33 or sometime about that time. I was gone about eighteen months. I was laid off, and conditions didn't look very favorable, so I didn't come back to work.

Q. And after that occasion, when you had an eighteen month lay-off, have you been laid off since that time more than a month?

A. Yes, I have.

Q. When was the next such occasion?

(Testimony of L. A. Spear.)

A. I think I returned in '34, September of '34, as well as I can remember.

Q. After September of 1934, when was the next occasion when you were not employed by the Company for a period in excess of a month?

A. There was a period of time in '36, about two or three months. [854]

Q. And were you laid off at all during the year 1937? A. No.

Q. And during the year 1938, before November 18th, 1938, were you laid off? A. (Pause.)

Q. Do you understand that?

A. I don't believe I do.

Q. Before November 18th of 1938, were you laid off by the Company during that year, 1938?

A. I was laid off in the Spring of '38 for about two or three months.

Q. Two or three months? A. Yes.

Q. Very well.

When did that occur?

A. I think it was February sometime, until, I believe it was, the 1st of May or possibly could have been the 1st of June. The books would have to show that.

Q. Well, from the 1st of May or the 1st of June, 1938, did you work continuously until November 18th, 1938?

A. Well, whatever time that was; when I returned I did work continuously.

Q. And what type of work did you do at the Company in the year 1938?

(Testimony of L. A. Spear.)

A. I did repair work and ginning. [855]

Q. When you say "ginning," what operation did you have reference to?

A. A ginner operates the machinery that takes the lint off of the seed.

Q. And what rate of pay per hour did you receive for doing that work during the year 1938?

A. I think it was 50 cents an hour in '38.

Q. During the year 1938, did you become a member of any labor organization? A. I did.

Q. Did you become a member of a labor organization while you were employed by the J. G. Boswell Company at Corcoran? A. I did.

Q. Of what organization did you become a member of?

A. A. F. of L. affiliate, Cotton Products and Grain Mill Workers' Union.

Q. Do you recall the number of that Union?

A. 21798, I believe.

Q. And when did you become a member of that labor organization?

A. I don't hardly remember the time when I signed an application. It was some time, I think, in September.

Q. Of the year 1938, is that correct?

A. Yes.

Q. And did you ever become an officer of that Local, that is, [856] Local 21798?

A. I did.

Q. What office did you assume in that organization? A. I was the president.

(Testimony of L. A. Spear.)

Q. And approximately upon what date did you become president of that organization?

A. Well, I don't exactly remember the date. I think it was sometime in November.

Q. Which part of November? The fore part or the latter part of November?

A. The fore part.

Q. And the year is 1938; is that correct?

A. Yes.

Q. Has your employment with the J. G. Boswell Company ceased?

A. Yes, sir, it has.

Q. When did you last work for the J. G. Boswell Company?

A. It was on November 18th, I believe, '38.

Q. On the morning of November 18th, 1938, did you or did you not wear your Union button at the plant? A. I did.

Q. Prior to that time, had you worn your Union button at the plant? A. No, I did not.

Q. On that same morning, that is, November 18th, 1938, did other members of the Local wear their Union buttons at the [857] plant?

A. On November 18th some of them did.

Q. Yes.

A. I think for the first time.

Q. Now, at what time did you go to work on November 18th, 1938?

A. I went to work a few minutes before 10:00 o'clock. A. Is that A. M. or P. M.?

(Testimony of L. A. Spear.)

A. A. M.

Q. Were you operating a gin at that time?

A. I was.

Q. What gin? A. Number One.

Q. On the morning of the 18th, what did you do with reference to the operation of Number One gin?

A. Well, I tried to get there a few minutes earlier in order to do some preliminary work.

Q. The question is, did you arrive there a few minutes early? A. Yes, I did.

Q. Will you state, then, what you did?

A. I first cleaned out the dropper, and looked over the belts on the cleaner and gave a hasty survey of the whole.

Q. Will you tell us what next occurred after you did the things you have just described?

A. By that time, it was about time, or was time to start up, [858] so I went out to see the engine man.

Q. Who was that? A. Mr. Todd.

Q. Was he an employee of the J. G. Boswell Company? A. Yes, sir.

Q. Was he an employee of the J. G. Boswell Company at that time?

A. Yes, he was; the engineer.

Q. Did you have a conversation with Mr. Todd at that time? A. Yes, I did.

Q. Was anyone else present other than you and Mr. Todd?

(Testimony of L. A. Spear.)

A. I do not know. I don't think so, within hearing.

Q. Yes.

And where were you when you had your conversation with Mr. Todd?

A. I was standing under the conveyor leading over to Number Three and Four gin.

Q. Now, what did you say to Mr. Todd at that time, and what did he say to you?

Mr. Painter: Just a moment, your Honor. I would like to place an objection to that question on behalf of all of the Respondents on the ground it is hearsay, and not binding on any of the Respondents, and no authority shown for Mr. Todd to speak for any of the Respondents.

Trial Examiner Lindsay: He may answer, and you may have [859] an exception.

The Witness: Did you ask a question?

Trial Examiner Lindsay: Read the question, please.

Mr. Mouritsen: I asked for the conversation that you had with Mr. Todd, and I will stipulate that the objection applies to this repetition of the question.

Mr. Painter: Satisfactory.

The Witness: I asked Mr. Todd to start the engine, and he replied that he was told not to start it, that they were going to have a meeting out there (indicating.)

(Testimony of L. A. Spear.)

Q. (By Mr. Mouritsen) Did he make a pointing motion with his hand? A. Yes.

Q. And in what direction, or to what part of the plant did he point?

A. He motioned over towards the warehouse.

Q. Is there more than one warehouse at the plant?

A. We consider the big warehouse, the case room, the warehouse. There is some more warehouse.

Q. When you state "the warehouse," is that what you characterize as the big warehouse, the one to which you pointed? A. Yes, sir.

Q. What did you then do? Strike that.

Did you have any further conversation with Todd?

Mr. Painter: Just asking if he had any conversation? [860]

Mr. Mouritsen: Yes.

The Witness: I had no more conversation with Mr. Todd.

Q. (By Mr. Mouritsen) What did you then do, Mr. Spear?

A. I went back to my gin. No one was gathered out there. I couldn't see anyone.

Q. Well, that was at the time that you went back to your gin, is that correct?

A. I went directly back inside the building, Number One and Number Two.

Q. Then what next did you do?

(Testimony of L. A. Spear.)

A. A few minutes later, three or four minutes—possibly not over ten—Mr. Bill Robinson came in and—

Q. (Interrupting) Did you have a conversation with Mr. Robinson? A. No.

Q. Will you state what you observed Mr. Robinson—Bill Robinson, do?

Mr. Painter: Objected to as it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: If he knows he may answer.

The Witness: Mr. Robinson and Mr. Farr started in shutting down Mr. Farr's gin.

Q. (By Mr. Mouritsen) And did they complete that shutting down of Mr. Farr's gin while you watched them?

A. They didn't complete the whole operation. They were at it when I walked out. [861]

Q. And where did you go when you said you walked out?

A. I walked out to the place out there.

Q. To what place, Mr. Spear? Can you describe or designate it for us?

A. The gathering place of the supposed to be meeting.

Q. Where was this gathering place? Was it in or out of the plant?

A. Between the big warehouse and No. 2 gin.

Q. Is it on the company property?

A. Yes.

(Testimony of L. A. Spear.)

Q. And was this or was it not shortly after 10:00 o'clock?

A. Shortly after 10:00 o'clock.

Q. Will you state what you observed when you walked out at this time?

A. There was quite a collection of men.

Q. Approximately how many?

A. Oh, I would say 20 or 30 or possibly 40.

Q. You have worked—or you worked at the plant for a period of approximately ten years with some intermissions. Are you or are you not acquainted with the other employees of the J. G. Boswell Company?

A. Most of them I am.

Q. Will you state whether or not you observed among that crowd men who were not employees of the J. G. Boswell Company? [862]

A. No, I don't think so. I never paid but very little attention to the crowd at that time.

Q. On that occasion did you observe Tom or Joe Hammond in the crowd?

A. No, I did not.

Q. Will you state what next occurred after you walked out and saw this crowd, Mr. Spear?

A. I didn't see anything out of the ordinary; as well as I remember it, I walked over and sat down on the back end of the bale wagon.

Q. Will you state what you next observed and heard on that occasion?

Mr. Painter: Just a moment. I will object to

(Testimony of L. A. Spear.)

this on behalf of all of the respondents as hearsay and not binding on any of the respondents.

Trial Examiner Lindsay: He may answer.

The Witness: The next thing I noticed besides just the milling of the crowd was a few men gathering around Mr. Farr and talking with him.

Q. (By Mr. Mouritsen) Who is Mr. Farr?

A. He is—was the ginner on No. 2.

Q. Do you know whether or not that is O. L. Farr? A. It is.

Q. Yes.

Now, will you state what you next observed and heard [863] with reference to these men gathered around Mr. O. L. Farr?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: The most important thing that I noticed was—or heard, was Tom Donohough asking Mr. Farr if—about the constitution and the by-laws.

Q. (By Mr. Mouritsen) Well, the constitution and by-laws of what? A. Of the union.

Q. Who is Tom Donohough?

A. He is one of the employees at the time—was either running a drier for 3 and 4 or employed in the mill. I don't know which.

Q. When you refer to 3 and 4, is that to 3 and 4 gins? A. Yes, sir.

Q. At that time did you hear Mr. O. L. Farr say anything to the assembled group?

(Testimony of L. A. Spear.)

Mr. Painter: I will object to this as hearsay and not binding on these respondents and no proper authorization shown.

Trial Examiner Lindsay: He may answer.

The Witness: I understood Mr. Farr to say, "We have got it."

Q. (By Mr. Mouritsen) At that time did you hear Mr. Farr say anything with reference to the president of the local? [864]

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: There was some conversation that I didn't hear, and something was mentioned about the president.

Q. (By Mr. Mouritsen) Do you recall what was said by anyone regarding the president of the local?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: I understood Mr. Farr to say that Mr. Spear was the president.

Q. (By Mr. Mouritsen) Yes.

Did you do anything at that time? A. Yes.

Q. What did you do?

A. I walked up toward the bunch that was on the front end of the bale wagon.

Q. Yes.

Did anyone state anything to you at that time?

A. Yes.

Q. Who?

(Testimony of L. A. Spear.)

A. Mr. Nichols, the carpenter. I believe he was the first man that spoke to me. That is, I took it that he addressed me first. There might have been others, but he was the first man that I paid attention to as speaking to me.

Q. Now, what did Mr. Bill Nichols say to you at that time? [865]

Mr. Painter: Your Honor, may it be deemed that our objection of hearsay goes to all of this testimony? If not, I will object to it on each occasion. I object to this question as hearsay and not binding on these respondents.

Trial Examiner Lindsay: The objection is overruled.

The Witness: I am not sure whether Mr. Nichols says, "Here, what about this union business?" or he said, "Lonnie, what about this union business?" It was something to that effect.

Q. (By Mr. Mouritsen) Did you say anything at that time?

Mr. Painter: The same objection.

Trial Examiner Lindsay: The same ruling.

I understood you had your objection to all of this line of testimony.

Mr. Painter: Pardon me, your Honor. I didn't hear any response on your behalf.

Trial Examiner Lindsay: I took it for granted that you had. You stated it on the record.

Mr. Painter: Is that satisfactory with your Honor?

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Yes.

Q. (By Mr. Mouritsen) Very well.

Now, Mr. Spear, will you state what, if anything, you said at that time?

Trial Examiner Lindsay: However, if you wish to object to everyone of these questions in addition to your general [866] objection, you may do so.

Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: As well as I remember, I started to explain to Mr. Nichols about the 8-hour plan that was being put in effect to save No. 4 gin from being laid off.

Trial Examiner Lindsay: Just a moment. Will you read back my last statement there?

(The record referred to was read by the reporter, as set forth above.) [867]

Mr. Clark: May I have the entire statement read back, your Honor, because I understood Mr. Painter was only asking if it could be deemed that his objection would run to this entire incident, and he did not hear any response from you.

Trial Examiner Lindsay: Isn't it all settled?

Mr. Clark: Very well. I would like to hear it read, if I may.

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

(Testimony of L. A. Spear.)

Mr. Clark: Very well.

Q. (By Mr. Mouritsen): Now, after you made the statement about which you testified, what next occurred with reference to yourself?

A. Well, there was a short interval of time that I was explaining—I don't recall the exact words—but I do remember a short interval of time later I was seized by some parties.

Q. Did you recognize the men who seized you?

A. I recognized two of them.

Q. And who were they?

A. Tisdale, I believe, was one of the boys' names, and Salsbury, I believe, was the other boy's name.

Q. Will you tell us what they did when what you have described as "they seized you," occurred?

A. Each of them seized an arm and someone behind was pushing [868] on me, and I was forced out of the gin lot there, the property.

Q. And what next occurred?

A. We entered the office.

Q. What office? A. Mr. Hammond's office.

Q. And did those, the men you have named, still have you by the arms, and was someone pushing you on the back at the time you entered the office?

A. I don't think so.

Q. Will you describe how you entered the office on that occasion?

A. I think that they had partially relinquished the pressure; they might have had ahold of my arm; anyway, they were right up against me.

(Testimony of L. A. Spear.)

Q. And to whose office did you go on that occasion?

A. I went to Mr. Hammond's office.

Q. And is that Gordon Hammond? A. Yes.

Q. What occurred while you were in Gordon Hammond's office, if anything?

A. Nothing occurred. There was some talk outside.

Q. And when you say "outside," what—

A. (Interrupting): I mean in the hallway.

Q. In the hallway outside of the office, is that correct?

A. The hallway of the office building. [869]

Q. Did anything occur while you were in the office itself?

A. Not that I can recall.

Q. While you were in the office of Gordon Hammond's on that occasion, do you recall whether or not Mr. Louis T. Robinson appeared at that time?

A. He did not appear in the office. I heard his voice out in the hall somewhere. I heard his voice.

Q. You mean that his voice came from the hallway, is that correct?

A. That is correct.

Q. And is that the hallway where these other men were standing outside of Gordon Hammond's office? A. Yes.

Q. Will you state what you heard Mr. Louis T. Robinson say on that occasion?

A. He told the men to go on back to work, that he would come down and straighten it out, straighten out the trouble.

(Testimony of L. A. Spear.)

Q. At that time, or immediately after that time, did these other men in the office and the hall leave the office and hall respectively?

A. We all left immediately.

Q. Did you on that occasion see a number of these other employees go to various parts of the plant from the hall and from the office of Gordon Hammond?

A. Yes; every man left and went to his job.[870]

Q. Did you, yourself, on that occasion leave the office of Gordon Hammond and return to Number One gin? A. I did.

Q. Will you state what occurred after you returned to Number One gin on that occasion?

A. I started my two cleaners, which are electric driven, each one is a separate dryer. I started both of them up.

Q. Are they part of the gin? A. They are.

Q. And does the ginner ordinarily start those motors when he engages in the operation of ginning?

A. Yes. That is the first operation.

Q. Will you state what you next did at that time?

A. I went over to my clutch lever and was waiting for the engine to start.

Q. Will you explain what the clutch lever is?

A. That is the main drive for the gins; it is driven by a large gas engine, and it has a clutch on the shaft.

Q. After the motors are started, is that the way you start your gin, by throwing in this clutch?

(Testimony of L. A. Spear.)

A. These cleaners are separately driven, you understand, and naturally they have to be started first. They are electric driven, but the main power plant is by a big gas engine which runs the fan and the big-line shaft that operates the gins. It has a clutch. [871]

Q. Well, at that time did you start your gin to operating?

A. The big engine had not started, and I was waiting for it to start.

Q. How long did you wait there, approximately?

A. Oh, probably a couple of minutes; two or three, four or five minutes, something like that; very short time.

Q. What then occurred?

A. I saw three men file in through the gin building.

Q. Did they come into the building where your gin is located, that is, the Number One gin?

A. They came into the place that separated the two gins, I might say the hallway or alley between the two gin stands.

Q. And which gin stands?

A. Number one and Number two gins.

Q. And are those Number one and two gins in the same building? A. They are.

Q. Now, will you describe the men who came into the building on that occasion?

A. They went in to the starting switch on Number two.

(Testimony of L. A. Spear.)

Q. Let us have their names, Mr. Spear. Who were those men?

A. Mr. Kelly Hammond and Mr. Burdine and Mr. Mitchell.

Q. And who was Kelly Hammond?

A. He is a man employed at the mill.

Q. Any relation to Tom, Joe or Gordon Hammond? [872]

Mr. Painter: Objected to on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: I am not sure. I have heard that he is related, but I don't know just what. I think he is a cousin or something like that, or a nephew; maybe something like that. I don't know just what it is.

Mr. Painter: Just a moment. I move to strike that answer as being hearsay.

Trial Examiner Lindsay: The answer may stand.

Q. (By Mr. Mouritsen): Do you know Mr. Mitchell's initials or his first name?

A. No, I do not.

Q. And Mr. Burdine, do you know his initials or first name? A. No, I do not. [873]

Q. Do either of them have any nickname by which they are known in the plant?

A. They might have. I don't recall it at the present time.

Q. Will you state what you saw Mr. Burdine, Mr. Mitchell and Kelly Hammond do on that occasion?

(Testimony of L. A. Spear.)

A. Mr. Hammond, he pushed the button that stopped Mr. Farr's gin, the gin stand.

Mr. Painter: That is Kelly Hammond?

The Witness: That is Kelly Hammond.

Q. (By Mr. Mouritsen): What did you next observe them do, if anything?

A. Burdine and Mitchell didn't do anything. A short interval of time later, a very short interval of time, Mr. Bill Robinson came in.

Q. Who is Bill Robinson?

A. He is a man employed there as a sub-foreman and repairman, trouble shooter.

Q. I believe you stated that you worked as a ginner practically all of the time you worked at the plant, is that correct?

A. Off and on as a ginner.

Q. Did Mr. Bill Robinson ever have any connection with your work at the gins?

A. Oh, yes. [874]

Q. Will you state the connection that Mr. Bill Robinson had with your work on the gins?

A. Well, he gives orders, what to do if anything went out of the ordinary, helped make the place run, keep it in operation.

Q. Well, did he on a number of occasions give you orders about your work in the gin?

A. Yes, he did.

Q. Did you on a number of occasions see him or hear him give orders to other employees in the gin?

(Testimony of L. A. Spear.)

A. Well, I don't know as I paid very much particular attention. I always worked by myself and lots of noise there and I had heard him give orders, but I don't recall any specific time.

Q. Well, the question is, did you see him or hear him give orders to other employees in the gins?

A. Well, yes; I have. I have heard him give orders.

Q. Now, the orders that he gave you regarding your work in the gins, did you carry those orders out? A. Yes, I did.

Q. And did you observe any of the other employees carry out orders that you heard Bill Robinson give them?

A. Oh, yes. He knew his business. He gave the orders right. That is his job.

Q. Well now, did he on a number of occasions tell you when [875] to come and when not to come to work?

A. Yes, he has told me when to come to work and not to come to work.

Q. And on the occasions when he told you to come and not to come to work, did you follow out those orders? A. Oh, yes.

Q. Now, will you describe what, if anything, you observed Mr. Bill Robinson do at that time?

Mr. Painter: Objected to, incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

Mr. Painter: No authority shown.

(Testimony of L. A. Spear.)

The Witness: He stopped the fan motor that runs the fans.

Q. (By Mr. Mouritsen): On your gin?

A. No, Mr. Farr's gin.

Q. Will you continue and describe what you observed Mr. Robinson do at that time?

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: Well, Mr. Farr asked him, first, I believe, if I might state, that just an instant before Bill stopped these motors he says, "Here, boys, this won't do——"

Mr. Painter (Interrupting): Just a moment, your Honor. I am going to object to this conversation. I don't [876] believe it is called for by the question—as being hearsay, not binding upon these respondents, and no authority shown.

Trial Examiner Lindsay: He may answer.

The Witness: What was that question?

Mr. Mouritsen: I will reframe it, Mr. Spear.

Q. At that time did you hear—strike that.

Just prior to the time when you observed Mr. Robinson shut Mr. Farr's fan off, did you hear him say anything? A. Yes, I did.

Q. And who were present at that time?

A. Well, I think Kelly and Burdine and Mitchell would easily have heard him make that statement.

Q. They were still in the building?

A. They were right there.

Q. And was Mr. Farr also present?

(Testimony of L. A. Spear.)

A. He was, as well as I recall, he was up at the other end of the gin. He probably did not hear the statement.

Q. Now—pardon me—will you state what Mr. Bill Robinson said on that occasion?

Mr. Painter: Objected to as hearsay, not binding upon these respondents, no proper authority shown.

Trial Examiner Lindsay: The objection is overruled. He may answer.

The Witness: He stated, "Here boys, this won't do. Mr. Robinson wants the machinery to run." It might have [877] been, "the work to go on." I am not sure about that.

Q. (By Mr. Mouritsen): But you have given us in substance what you recall he said, is that correct?

A. Yes.

Q. Now, will you state what next occurred after you observed Bill Robinson shut off the fan for Mr. Farr's gin?

A. Well, it took a short interval of time for the machinery to stop, and then Mr. Farr came walking down and he seemed to be naturally interested in why the machinery stopped.

Q. Well, did he say anything to Mr. Bill Robinson or Kelly Hammond that you heard?

A. Well, right at that time, before he got down there, he didn't say anything because it was noisy, you see. The machinery was still running to a certain extent.

Q. Well, after the machinery stopped running, did you hear Mr. Bill Robinson say anything or Mr. O. L. Farr say anything?

(Testimony of L. A. Spear.)

Mr. Painter: Objected to, incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: As well as I remember, he asked—

Mr. Painter: Just a moment. If this is going to call for a conversation, I will also object on the ground it is hearsay, not binding on these respondents. [878]

Trial Examiner Lindsay: Strike the ruling.

Now, have you got it all in there, Mr. Painter?

Mr. Painter: Yes, your Honor.

Trial Examiner Lindsay: All your objection.

Now you may answer.

The Witness: First Bill stated that—first the other boys, somebody yelled, “We are not going to work with these union men.”

Q. (By Mr. Mouritsen): Did you identify the person who made that statement or who yelled that statement?

A. No, I did not identify them.

Q. Very well.

Now, after you heard someone yell the statement you have given us, did you hear O. L. Farr say anything to Bill Robinson?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Bill Robinson made the first statement.

Mr. Mouritsen: Very well.

Q. What did Bill Robinson say to Mr. Farr and what did Mr. Farr say to Bill Robinson?

(Testimony of L. A. Spear.)

Mr. Painter: Objected to as hearsay, not binding on these respondents, no authority shown.

Trial Examiner Lindsay: He may answer. You may have [879] an exception.

The Witness: Let me have that again.

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

The Witness: Bill said, "If you union boys can't operate this place, you'd better go home until we get this straightened out."

Q. (By Mr. Mouritsen): And did Mr. Farr say anything at that time?

Mr. Painter: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

Will you step down a minute, please?

(The witness stepped down from the witness stand.)

Trial Examiner Lindsay: Will you gentlemen come up here, please?

(Conference between counsel and the Trial Examiner at the bench.)

(The witness resumed the stand.)

Trial Examiner Lindsay: Read the last question and answer.

(The record referred to was read by the reporter, as set forth above.)

The Witness: He asked Bill if that was an order.

(Testimony of L. A. Spear.)

Q. (By Mr. Mouritsen): And did Robinson say anything? [880]

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: He said, "No, that is a request."

Q. (By Mr. Mouritsen): Any further conversation take place at that time that you recall?

A. Bill stated that——

Mr. Painter (Interrupting): Just a moment. If this is going to call for a conversation, we make the same objection on the ground of hearsay.

Trial Examiner Lindsay: Same ruling.

The Witness: Bill stated that he only wanted to straighten the trouble out and he thought it would be a good idea for us to go home until we got this matter ironed out, something to that effect. I don't just remember the exact words.

Q. (By Mr. Mouritsen): How long do you recall you remained in the building where the No. 1 gin is housed after you returned from Gordon Hammond's office on that morning?

A. Oh, possibly ten or fifteen minutes, I guess. It could have been thirty, but I don't think so.

Q. Well, do you have any definite recollection as to how long you remained there after you returned from Gordon Hammond's office?

A. I had some conversation with Kelly right after the statement—— [881]

Mr. Painter (Interrupting): Your Honor, I object to this conversation as hearsay, not binding upon these respondents, and not responsive to any question.

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Sustained on the ground that it is not responsive to the question.

Mr. Mouritsen: Now, will you—I will restate the question as it will probabaly save time.

Q. Do you have any definite recollection, Mr. Spear, as to how long you remained in the gin house after you returned from Gordon Hammond's office?

A. No definite time, no. I couldn't say exactly how long.

Q. According to your best recollection it was ten to thirty minutes, is that correct?

A. Yes. I was quite upset at the time.

Q. I mean—what was the reason why you were upset?

Mr. Painter: Just a minute. I object to that as calling for a conclusion of the witness; incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

The Witness: Well——

Mr. Mouritsen (Interrupting): No, Mr. Trial Examiner has ruled you can't answer that.

Q. Now, after you heard the conversation that took place between Bill Robinson and O. L. Farr, did you have a conversation after that time with Kelly Hammond? [882]

Mr. Painter. Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes.

Q. (By Mr. Mouritsen): And was anyone else

(Testimony of L. A. Spear.)

present other than you and Mr. Kelly Hammond?

A. I believe that Joe Hammond, Mr. Burdine and Mitchell were still there.

Q. Now, will you state what Mr. Kelly Hammond said at that time and what you said to Mr. Kelly Hammond?

Mr. Paiter: Objected to as hearsay, not binding upon these respondents, no authority shown.

Trial Examiner Lindsay: He may answer.

The Witness: He asked me if I was going to pay union wages when I started farming.

Q. (By Mr. Mouritsen): Did you make any answer?

Mr. Painter: Same objection.

Trial Examiner Lindsay: He may answer.

The Witness: I told him I didn't know whether I would ever start farming or not; I hadn't got any land to farm.

Q. (By Mr. Mouritsen): Well, at that time was anything further said by you to Mr. Kelly Hammond or by Mr. Kelly Hammond to you?

Mr. Painter: Objected to as being incompetent, irrelevant and immaterial. [883]

Trial Examiner Lindsay: He may answer.

The Witness: Oh, there was several words. I don't recall what the conversation was.

Q. (By Mr. Mouritsen) Now, what did you next do after your conversation with Kelly Hammond was finished?

A. As well as I recall, I sat down on the stairs.

(Testimony of L. A. Spear.)

In fact, I was stalling for time. I was waiting for somebody to come around.

They didn't ever come so I thought it was about —someone suggested that I depart, so I did.

Q. Now, before you departed did Louis T. Robinson ever come out and straighten the thing out?

A. No.

Q. Did anyone else come out and straighten the thing out, to your knowledge?

A. No.

Q. And after you departed from the plant where did you go on that occasion?

A. I started home and I passed by Mr. Farr's house and I saw a number of cars there which I recognized, so I stopped in there.

Q. Now, during the course of your employment with the J. G. Boswell Company did you ever have a conversation with Tom Hammond about his putting pressure on the boys?

Mr. Painter: Objected to as incompetent, irrelevant and [884] immaterial, calling for hearsay, and it is leading and suggestive.

Trial Examiner Lindsay: He may answer.

The Witness: I never had a conversation with Tommy about it.

Q. (By Mr. Mouritsen) Did you ever have a conversation with Gordon Hammond about the same subject matter?

A. I had a conversation with Gordon regarding pressure, but I never mentioned any names. I never told him who was exerting the pressure.

(Testimony of L. A. Spear.)

Mr. Painter: May I have that answer read?

Trial Examiner Lindsay: Yes. Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) Where did you have the conversation with Gordon Hammond about the pressure being put on the boys?

A. In Mr. Hammond's office.

Q. About when—what was the approximate date of that conversation?

A. Just before the mill started.

Q. What year?

A. Oh, that was '38. I think it was just about the 10th of October or some time around there, or the 5th of October. I don't just remember the time.

Q. Well, what is your best recollection as to the approxi- [885] mate date?

A. Oh, two or three days before the mill started in October.

Q. Of 1938? A. Yes.

Q. Was this a conference—strike that.

Was Mr. Prior present at that conference?

A. No, Mr. Prior was not present.

Q. Other than yourself and Mr. Gordon Hammond, was anyone else present?

A. Yes, there was others.

Q. Will you name them, please?

A. Mr. Martin and, I believe, Mr. Farr was there.

Q. Yes.

(Testimony of L. A. Spear.)

Will you state the conversation that took place at that time between yourself or any of these others and Mr. Gordon Hammond?

A. Well, that was a conference—several things was discussed there.

We discussed a little bit about the pressure that was being exerted on some of the prospects, prospective members.

Q. Will you state what was said in that regard, Mr. Spear? What was said by any of the boys present and what was said by Mr. Gordon Hammond respecting the pressure put on the boys, or the prospective boys as you say?

Mr. Clark: Well, may it please your Honor, I object to [886] that manner of going into the conversation. This is direct examination. Let us go into the whole conversation. Counsel's question is leading and suggestive, and not the proper manner of going into the question on direct examination.

Trial Examiner Lindsay: Read the question.

Let us have any conversation he has had.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: He may answer that question.

The Witness: The conversation was general. I don't remember any specific words. I think I merely mentioned the fact to Mr. Hammond that pressure was being brought to bear on some of the prospects that we had and we talked a little bit about it and

(Testimony of L. A. Spear.)

dropped the matter. I just mentioned the fact it had been brought to my attention that pressure and threats had been brought to bear on some of the boys and I just mentioned that to him for his own benefit, so that he could investigate if he wanted to. Otherwise he could forget the matter. I just mentioned it to him for courtesy. I thought maybe he ought to know it.

The main purpose of the meetings was other things.

Mr. Painter: I think this called for a conversation. May we have the answer responsive to the question?

Trial Examiner Lindsay: Just a moment. That answer may stand. [887]

Q. (By Mr. Mouritsen) Will you state what else you can recall of the conversation that was had between Mr. Gordon Hammond and the other men and yourself that you have named as being present at this time?

A. You mean other conversations?

Q. Well——

A. (Interrupting) Regarding the pressure as I mentioned?

Q. As I understand it, Mr. Spear, you have talked about part of the conversation about the pressure.

Now, I want all of the rest of the conversation that you can recall.

A. Well, in order to explain that, I will have to explain why the meeting was called.

(Testimony of L. A. Spear.)

I asked Mr. Hammond to meet us boys up there at a conference.

Q. Well, you had made a request for a conference prior to the time this conference was held, is that right? A. I did.

Q. After you made that request, you met with Mr. Gordon Hammond, is that correct?

A. Yes, I did.

Q. Is there any other explanation that you have as to why you had met at a conference at this time?

A. We wished to talk over a lot of things with Mr. Hammond. That was the purpose. [888]

Q. That was the purpose of the conference, is that correct?

A. Yes, that was the main purpose.

Trial Examiner Lindsay: I think this is a good point here to adjourn. It is a little after 4:30. We will pick up here in the morning at 9:30.

(Whereupon, at 4:32 o'clock p. m., an adjournment was taken until 9:30 o'clock a. m., the following date.) [889]

American Legion Hall,
Corcoran, California,
Friday, May 26, 1939. [890]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Ready for the Respondents.

Mr. Mouritsen: Ready for the Board, Mr. Examiner.

Trial Examiner Lindsay: Let the record show that the time to answer for the Respondent to the amendment to the complaint expires on Tuesday night, and there will be no objection to having the answer, the amended answer, put in on Wednesday, the following day, or, in fact, the day after.

Mr. Clark: Thank you very much, your Honor.

Trial Examiner Lindsay: Is that agreeable?

Mr. Mouritsen: That is the amendment to the amended complaint?

Trial Examiner Lindsay: Yes, regarding——

Mr. Mouritsen (Interrupting): James W. Gilmore?

Trial Examiner Lindsay: The Gilmore matter.

L. A. SPEAR

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Direct Examination

Mr. Mouritsen: Mr. Examiner, the witness has informed me that he has difficulty in hearing in one of his ears, and may counsel be instructed to speak loud enough so that he can hear?

Mr. Clark: Yes.

Q. (By Mr. Mouritsen): Now, Mr. Spear, I believe yesterday [892] when we concluded the taking of the testimony, you were testifying regarding a conference in October that you had with Mr. Gor-

(Testimony of L. A. Spear.)

don Hammond. I believe you testified that you and several other employees were present.

Do you recall the meeting? A. I do.

Q. And I believe you testified that it was either around the 5th of October, 1938, or around the 10th of October, 1938. Is that correct?

A. It was somewhere around there. It was before the mill had started; two or three days.

Q. And I believe that at the time we concluded taking the testimony, you had testified as to part of the conversation that took place.

Do you recall that? A. Yes, I do.

Q. Now, will you now state, Mr. Spear, what was said at that time by any of those people present?

A. Well, the conversation was general. The meeting was for the purpose of working out a schedule for the mill and the gin, working hour schedule.

Q. What was said——

Trial Examiner Lindsay (Interrupting): I am sorry. I promised Mr. Wingrove I would wait until he got back, and I forgot it. [893]

(At this point Mr. Wingrove entered the hearing room.)

Trial Examiner Lindsay: I am very sorry. I came right up here and forgot.

Mr. Wingrove: I did not mean to hold up the proceedings.

Trial Examiner Lindsay: Do you want the two or three questions re-read, and the answers?

(Testimony of L. A. Spear.)

Mr. Wingrove: I would, if it is not too much trouble.

(The record referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: And to conclude that question:

Q. What was said at that time regarding the work-hour schedule of operation, or hours, for the mill?

Mr. Clark: This is with Gordon Hammond, of course, is that not right?

Q. (By Mr. Mouritsen) Gordon Hammond was present at this conversation, is that correct?

A. Yes.

Mr. Clark: Very well.

Q. (By Mr. Mouritsen) State, in substance, what Mr. Hammond said and what anyone else present at that time said regarding the schedule of hours?

A. Well, they made an agreement there——

Mr. Clark (Interrupting): Just a minute, your Honor.

Mr. Mouritsen: I agree that that may go out.

Q. Now, Mr. Spear, just state what was said, as nearly as [894] you can recall?

A. I don't remember anything definite said in words.

Q. I don't want the exact words or a verbatim statement. Just give us, in substance, what was said, the gist of it, as you recall it.

A. Well, I just started to do that.

(Testimony of L. A. Spear.)

Q. Well, now, Mr. Spear, you started to give us a conclusion that an agreement was reached. What I want to know is what was said about an agreement at that time?

Mr. Clark: If anything.

The Witness: O. K.

I don't know what you mean.

Trial Examiner Lindsay: I will explain it to you. Is that agreeable?

Mr. Clark: Oh, surely.

Trial Examiner Lindsay: Now, all the attorney for the Board wants you to tell us about is what did you say to Mr. Hammond, or what did Mr. Hammond say to you, or what did anyone of the other boys who were with you say to Mr. Hammond or Hammond to them. Is that plain?

The Witness: Yes, that is plain enough.

I told Mr. Hammond there had been some pressure put on the boys, some of our prospective members, and I told him that for his own benefit and he could do whatever he wanted to about it, but I just mentioned the fact that I had had this [895] brought to my notice. That is one of the things that I mentioned to Mr. Hammond.

Q. (By Mr. Mouritsen) Now, did Mr. Hammond say anything to you after you made that statement to him?

A. Well, I don't remember the exact words, but the gist of his conversation was that if there was anything like that going on, he didn't know anything

(Testimony of L. A. Spear.)

about it, and he didn't authorize it; he absolutely didn't authorize anything like that. [896]

Q. Yes. Now, was there any further conversation at that time that you recall?

A. I asked him if it would put him on the spot if we would post up a notice in the machine shop stating that there would be no discrimination against anyone joining the union.

Q. Now, did he say anything when you asked him that? A. Yes, he did.

Q. What did he say?

A. He said, yes, he guessed it could but he would rather not at this time. That is the very words he said.

Q. Now, at that time was there any further conversation between you and Mr. Gordon Hammond?

A. Not about that subject. There was other things.

Q. All right.

Now, will you tell us what was said about other things at that time either by yourself or by Mr. Gordon Hammond?

A. Well, the conversation was about the hours and the number of men to be employed in places and so forth.

Q. Now, will you state as nearly as you can recall, and I mean only in substance, what was said by Mr. Gordon Hammond about those subjects and what was said by you or some of the other boys present about those subjects?

(Testimony of L. A. Spear.)

A. Well, in regard to the hours, he was willing to work out some plan.

Q. Is that—when you say “he,” you refer to Mr. Gordon [897] Hammond, is that correct?

A. Yes.

Q. Did he say he was willing to work out some plan? A. Yes, he did.

Q. Now, continue.

A. Well, we talked the matter over and owing to several factors—he showed me a letter from J. G. Boswell. In this letter Mr. Boswell stated at the present time he would rather not start the plant; that he could hold the seed in the seed house better than he could than if he put it in the warehouse in the cakes.

Mr. Clark: I wonder if you would fix the best you can the date of this letter, if the witness remembers it?

The Witness: Mr. Hammond can tell you about that. He has the letter.

Q. (By Mr. Mouritsen) Do you recall whether or not there was any date on that letter?

A. No, but this letter was—he had the boys—signature of the boys that had signed only as to whether or not they was to work 8 hours or 12 hours. That was a letter that Mr. Hammond had passed around to the boys.

In this letter Mr. Hammond stated—Mr. Boswell stated, that he didn't care whether they worked 12 hours or worked 8 hours. [898]

(Testimony of L. A. Spear.)

Q. Now, when you state that that letter was passed around among the boys, to what people do you refer?

A. Well, all I know of is Joe Briley and Andrade and that is the only ones that told me about it. I saw some other names on the paper. I didn't pay no attention to the names.

Q. Well, now, on this letter that you saw at the time, there were a number of names, is that correct?

A. Yes, there was.

Q. Now, will you tell us what further conversation took place at that meeting?

A. Well, in order to keep some of the boys from being laid off at the gin, we had a few number around there that we didn't really need. In other words, they was on the payroll and they wasn't doing very much work. That is——

Q. (Interrupting) No.

I move that all of the witness's answer after the expression go out as not responsive.

Mr. Clark: May I have the question read back, your Honor, before there is a ruling?

Trial Examiner Lindsay: Yes. Read the question. Read the question and the answer.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I submit that should stay, may it please your Honor, if it was part of this conversation. [899]

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: That is what I was going to find out.

Did you say that to Mr. Hammond?

The Witness: I didn't say that to Mr. Hammond. I don't think I did. I was just stating that to be a fact. I knew that to be a fact. That is my opinion. That is, if I had been foreman, that would have been my opinion.

Mr. Clark: I submit, Mr. Examiner, it should stay in. It could very well stay in rather than put me to the time and so forth of developing it on cross examination. It isn't quite responsive to the question, but it would have to come in on cross examination.

Mr. Mouritsen: It isn't at all responsive. I am trying to find out what happened at this conference. The witness has given a number of his conclusions. If counsel wants to go into that on cross examination, that is his prerogative.

Trial Examiner Lindsay: I think the question should be answered. It may go out.

Q. (By Mr. Mouritsen) Now, Mr. Spear, directing your attention more closely to the question, what further was said at that conference at that time?

A. Well, I don't recall any words without having my memory refreshed by some incident.

Q. Well——

A. (Interrupting) I can tell you the gist of the conversation [900] and when this comes along, I can tell you the exact words that were spoken.

(Testimony of L. A. Spear.)

Q. That is what I am trying to get, Mr. Spear, the gist of the conversation that you recall from that time on.

A. Well, I can lead up to the matter by stating that we finally agreed on certain hours.

Q. No. I move that that go out as not responsive, Mr. Examiner.

Trial Examiner Lindsay: Let us try and listen to the questions.

Are you hearing his questions all right?

The Witness: I hear the questions, but I don't "savvy" what he means. That is all there is to it.

Trial Examiner Lindsay: Read the last question.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Mr. Spear, that merely means that you are to try and tell what you said to Mr. Hammond and what Mr. Hammond said to you, and if the other boys who were with you said anything, then tell what they said, and what Mr. Hammond said. Does that explain it?

The Witness: That is O. K.

Mr. Clark: May it please the Examiner, do I understand that the part of the answer referring to some agreement having been made does go out in response to Mr. Mouritsen's motion? [901]

Trial Examiner Lindsay: Yes.

Mr. Clark: Very well.

Trial Examiner Lindsay: Mr. Spear, on account

(Testimony of L. A. Spear.)

of his hearing, probably didn't quite understand all of this.

The Witness: I understood the words, but I don't get exactly what he means. I can lead up to the conversation and tell what it is.

Trial Examiner Lindsay: Now, you understand, don't you?

The Witness: I did. I was going to state, but now I have forgotten.

Trial Examiner Lindsay: Will you read that explanation I gave?

(The record referred to was read by the reporter, as set forth above.)

The Witness: All right.

I told Mr. Hammond that—he asked me if we was representing the Union members. I told him as a committee, why, we were representing the Union members.

Trial Examiner Lindsay: Anything else?

The Witness: Well, I don't recall anything else. the very words. I made this statement to him.

Mr. Clark: I suggest, Mr. Examiner, that the witness also be instructed that all he is expected to give us is the substance of the words, not a direct recollection of them. None of us could do that, I am afraid. [902]

Trial Examiner Lindsay: Yes. Just tell us if he said anything else, or if you said anything else.

The Witness: I don't remember the words.

Trial Examiner Lindsay: You don't have to.

(Testimony of L. A. Spear.)

Just tell us what you remember as the gist of the conversation.

The Witness: Well, he was willing to talk the matter over. He recognized us as the——

Mr. Mouritsen (Interrupting): I move that go out as not responsive.

Mr. Clark: I move that stay in, Mr. Examiner. If that is the best the witness can do towards giving us the gist, I think it answers that purpose.

He says—the gist is, he was willing to talk the matter over. After all, all of us have different capacities in this regard.

Trial Examiner Lindsay: Well, the answer may stand, and you may go into it further. [903]

Q. (By Mr. Mouritsen) Now, Mr. Spear, do you recall anything further that was said at that conference other than that which you have already given us?

A. Oh, we talked and talked there for quite a while. I don't remember the exact words.

Q. Very well. Now, during the month of September did you—strike that.

During the month of November 1938 did you have a conversation with Tommy Hammond about the union?

A. Never talked to Tommy about the union.

Q. Well, during the month of November, 1938, did you have a conversation with Tommy Hammond in which conversation the name Walter Winslow was mentioned?

A. Yes, I did.

(Testimony of L. A. Spear.)

Q. Now, when did that conversation take place as best you can recall?

A. Well, that was on the day we met Gordon again. Mr. Gordon Hammond and myself and Prior, Mr. Farr.

Q. How long before November 18, 1938, did your conversation with Tommy Hammond take place?

A. Well, if you want to call that a conversation—it wasn't much of a conversation—but he came over to see me. I think that was the day before we was thrown out.

Mr. Clark: I move that the witnesses comment, "We were thrown out," be stricken from the record as his conclusion. [904] That is something for your Honor to determine from the record of this case, one way or the other.

Trial Examiner Lindsay: It may go out.

Q. (By Mr. Mouritsen) Now, where were you when Tommy Hammond came to see you on that occasion?

A. I was working on No. 1.

Q. No. 1 gin? A. Yes.

Q. And when Tommy Hammond came to see you, was anyone else present other than you and Mr. Tommy Hammond? A. Not right by us.

Q. Was there anyone nearby who could hear the conversation?

A. Mr. Farr—he was about 20 feet away, he just had a row with him about something.

Q. Now, what did Mr. Tommy Hammond say to you on that occasion and what did you say to him, if anything?

(Testimony of L. A. Spear.)

Mr. Clark: Just one minute, please. I will object to that on behalf of all respondents upon the ground it calls for hearsay and is not binding upon any of the respondents in this proceeding; no authority having been shown from the respondent Boswell to Tommy Hammond to speak for it in regard to any of the issues under investigation in this proceeding.

Trial Examiner Lindsay: He may answer. [905]

The Witness: I don't remember the question now.

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

The Witness: Oh, he come howling over there and asked me if Walt Winslow had told me that he threatened to have him fired about something or other, about union work or something.

Q. (By Mr. Mouritsen) Who is Walt Winslow?

A. He is a man that worked in the mill.

Q. Was he employed at that time by the J. G. Boswell Company?

A. Well, I know the mill was closed down. I don't think he was working at the time.

Q. Do you know whether or not he was laid off at that time?

A. Yes, he was laid off when the mill shut down. He was laid off.

Q. Do you recall anything further that was said at that time, either by yourself or by Mr. Tommy Hammond?

(Testimony of L. A. Spear.)

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

The Witness: Well, Tommy said he was liable to lose his job. He asked me if Walt Winslow had told me that he had threatened to have him fired for union work, union activity. [906]

Q. (By Mr. Mouritsen) Well, did you make any answer?

A. I told him that I was not at that time in a position to tell him whether he had told me or not.

Mr. Clark: By "he" may I have indicated who the witness means?

The Witness: Walt, Walt Winslow.

Mr. Clark: Whether Walt had told you that or not?

The Witness: Yes.

Q. (By Mr. Mouritsen) Now, on that same day did you and a number of other employees have a conference with Gordon Hammond?

A. Yes, we did.

Q. Was the conference with Gordon Hammond before or after this talk you had with Tommy Hammond? A. It was before.

Q. And where did that conference take place?

A. Over in Gordon's office.

Q. Who were—

A. (Interrupting) That is, it wasn't Gordon's office, it was the south office.

Q. Well, at least it was in the office building in the plant, is that correct? A. Yes.

(Testimony of L. A. Spear.)

Q. Do you know—can you specify the office any better than by the south office? [907]

A. Well, it was adjoining the waiting room. It was on the west of the waiting room. I guess that is what you would call the waiting room.

Q. Now, who else were present other than yourself and Mr. Gordon Hammond?

A. Mr. Prior and Mr. Farr.

Q. Anyone else? A. I don't think so.

Q. Now——

A. (Interrupting) Yes, Mr. Martin was there.

Q. Now, will you—strike that.

Do you recall the time of day of that conference?

A. Well, it was in the morning about 10:00.

Q. And about how long before the later conversation you had with Tommy?

A. Well, I guess that was about an hour and a half or two hours.

Q. It was an hour and a half or two hours before you had a conversation with Tommy Hammond?

A. It could have been three hours.

Mr. Clark: May I ask, Mr. Examiner, whether this was on the morning of November 17th.

Mr. Mouritsen: Now, Mr. Examiner, I think I am entitled to conduct the examination of my own witness. The time has been fixed as the day before November 18, 1938. [908]

Mr. Clark: All right. I just wanted to be sure, is all.

Trial Examiner Lindsay: Proceed.

(Testimony of L. A. Spear.)

Q. (By Mr. Mouritsen) Now, will you state what if anything was said at that conference regarding Tommy Hammond, and I refer to the conference in the office with Gordon Hammond.

A. I don't think Tommy Hammond's name was mentioned. I am pretty sure it was not mentioned.

Q. Well, will you state—I withdraw that.

Q. Now, directing your attention back to the conversation that you related with Tommy Hammond, did Tommy Hammond make any reference to the prior meeting that you had had with Gordon Hammond?

A. He did not.

Q. Very well——

A. (Interrupting) No mention at all.

Q. Now, after November 18, 1938, did you ever have a conversation with Gordon Hammond relative to the union?

A. After November 18th?

Q. After November 18, 1938.

A. Well yes, we had a meeting the next morning after we was throwed out.

Mr. Clark: May I ask that "after we were thrown out" be stricken out? [909]

Trial Examiner Lindsay: Yes.

Q. (By Mr. Mouritsen) Where did this conference take place?

A. Mr. Hammond's office.

Q. And who were present at that conference?

A. Well, two or three different ones.

Q. Well, would you state their names, if you can recall them?

A. Either Martin or Farr and Mr. Prior and

(Testimony of L. A. Spear.)

myself. I think it was Mr. Martin was present. I don't think Farr was there.

Q. Now, at that conference on the day after you left the plant, was the subject of the reinstatement of the men who left on November 18, 1938, discussed?

A. After Louis came in the matter was discussed.

Mr. Clark: Mr. Examiner, may I have the witness indicate who he means by "Louie"?

Trial Examiner Lindsay: Yes. Tell us who "Louie" is.

The Witness: That is Mr. Robinson.

Q. (By Mr. Mouritsen) Louis T. Robinson?

A. Yes.

Q. Well now, after that conference did you ever have a personal conversation with Mr. Gordon Hammond regarding the union?

A. Later on I did, after we were ejected from the plant. [910]

Q. Well now, I mean after this conference you have described as taking place on November 19th, or the day after you left the plant on November 18, 1938.

A. Yes, I met Gordon Saturday afternoon.

Q. Well now, is that—can you place that date with reference to the day when you last worked at the plant and when you left the plant?

A. That was the next day.

Q. All right.

Now, was it the same day you had this conference

(Testimony of L. A. Spear.)

with Mr. Gordon Hammond at which Prior and Martin were present?

A. I think it was the same day. I know I went up in the afternoon.

Q. Well, had this other conference that you described as taking place in Gordon Hammond's office, had that taken place in the morning of that day?

A. Yes, it had.

Q. All right. Now, where did you see Gordon Hammond on the afternoon of that day?

A. In his office.

Q. Was anyone else present other than you and Mr. Gordon Hammond?

A. Several boys came in, but they didn't stay very long.

Q. Well, who were the boys that came in? Did you recognize any of them? [911]

A. One of the boys that stayed in there for a while and talked was Shorty Henderson.

Q. Is he an employee of the plant?

A. No, not now.

Q. Well, was he at that time?

A. No, he wasn't.

Q. Did any of these people that came in and then left take any part in the conversation that you had with Gordon Hammond?

A. No.

Q. Will you state the conversation that took place at that time between you and Gordon Hammond, if any conversation took place?

(Testimony of L. A. Spear.)

A. Well, when I entered and sat down Gordon says, "Now, Lonnie, you see what this union business has led to. You can't hope to put it over," or, "it won't go over.

"Now," he said, "We don't hold any hard feelings toward you because we figure you have been influenced to join something that is not good for your own interest, and if you will drop this union business you can come back to work."

Q. Now, in that conversation was anything said regarding other union members?

A. Well yes, there was.

Q. Now, will you state what was said in that conversation regarding the other union members?

A. I told him I wouldn't come back unless the other boys could come back. [912]

Q. What did he say, if anything?

A. Well, he said, "You can come back and some of the others can come back, but I don't know about some of the others." He said, "I don't think they can come back."

Q. Do you recall any further conversation that took place at that time?

A. Well, several things. I just don't recall them right at the present time. If my memory was refreshed on the matter, I could possibly tell.

Q. At the present time, then, you have no recollection of a further conversation at that time with Gordon Hammond, is that correct?

A. We talked for a couple of hours, but we talked about first one thing and then another.

(Testimony of L. A. Spear.)

Q. Well, did any of the other things you discussed pertain to the Union or to your leaving the plant on November 18th, 1938?

A. He didn't say nothing about me leaving the plant. He stated that — something about if the Company would recognize this Union, that it would probably cause friction between us and the other boys.

Q. All right.

Now, do you recall anything further that was said at that conversation?

A. He said the boys had formed an organization the night [913] previous there in front of the office and in the office, said he didn't know what they accomplished because he was not present. He said he was there but he wasn't present.

Mr. Clark: May I have that explained a little bit, Mr. Examiner, before we leave it?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Mouritsen) Will you state what he said about being there, but not being present?

A. I took it that he was in his office and the boys were outside.

Q. In other words, Mr. Hammond was in the plant at the time, but he was not in the group of employees, is that correct?

A. The employees, from what I gathered, was in the waiting room and around the door and around the entrance of the big waiting room.

Q. Did he tell you that that was the case? In

(Testimony of L. A. Spear.)

other words, where the employees met on that occasion?

A. He didn't make no definite statement. He says, "The boys met here."

Q. And by that statement, did you understand that he meant in the plant?

A. Well, I took the statement that it would mean the waiting room and vicinity of the waiting room, because they couldn't meet in his office, the whole crowd.

Q. All right. [914]

Now, do you recall anything further that was said in this conversation with Gordon Hammond regarding the Union, the meeting of the employees on the night before at the plant, or the leaving of the plant by yourself and the other employees on November 18th, or anything related to those subjects?

A. Well, I told him I didn't think much of his union. I told him, in fact, I believe I called it a social club, that I didn't think much of his union.

Q. To what do you refer when you say you didn't think much of his union?

A. The organization there that they formed that night; they all signed up a paper.

Mr. Clark: May I have the witness indicate, Mr. Examiner, who he means by "they?"

Trial Examiner Lindsay: Yes. Who do you mean by "they?"

The Witness: All the employees that were then working for Boswell, not the Union members.

(Testimony of L. A. Spear.)

Mr. Mouritsen: Very well.

Q. Now, was anything further said at that conversation that you can recall?

A. Right at the present time, I don't think there is.

Q. All right.

Now, have you earned any money since November 18th, 1938? A. No, I haven't.

Q. Have you been employed by any concern since that time? [915] A. No.

Q. If the National Labor Relations Board should order your reinstatement with back pay, would you be willing to accept employment with the J. G. Boswell Company?

A. Not under them same conditions. I told Gordon once, afterwards, that if it was under certain conditions I wouldn't go back to work.

Q. Well, now, will you state the conditions under which you would go back to work if your reinstatement were ordered by the National Labor Relations Board?

A. Well, they would have to recognize the Union. I figure I have got a right to join a Union. I must be allowed to stay with this Union before I would go back to work. I figure that is my privilege. That is one condition that I will insist upon.

Q. Now, any others? Are there any other conditions that you would insist upon?

A. I am not very particular about the other conditions.

(Testimony of L. A. Spear.)

Q. Well, in other words, the only condition that you would insist upon would be that you be permitted to continue your membership in the Union, is that correct?

A. That is one thing. That is one thing. The others don't amount to much.

Q. Well, that is the only thing that you would insist upon, is that correct? [916]

A. That is the only thing.

Mr. Mouritsen: You may cross examine.

Cross Examination

Q. (By Mr. Clark) Mr. Spear, you are and were, during all the times we have been discussing here this morning, known as Lonnie Spear, weren't you? A. I am.

Q. Can you hear me now, clearly?

A. Yes. I would rather you get right up here.

Q. Suppose I bring my chair up here.

A. That would be fine.

(Mr. Clark moves his chair close to the witness.)

Q. (By Mr. Clark) When was this last conversation with Gordon Hammond you have just mentioned, at which you told him that you wouldn't go back to work at the Boswell plant except under certain conditions?

A. The last time was when I went up after my tool box. [917]

Q. And can you fix the time of that for us, just approximately?

(Testimony of L. A. Spear.)

A. That was just before, or after I got the letter of discharge.

Q. And when was that, please?

A. That was some time in the fore part of December. I have got the letter.

Q. I see.

And you refer to December 1938, of course?

A. Yes.

Q. And as I understand it, Mr. Spear, after you got this letter of discharge you then called at the plant to get your tools?

A. A while after that, I did.

Q. I see.

And upon the occasion of your calling at the plant to get your tools you talked to Gordon Hammond, didn't you? A. Yes, I did.

Q. Now, you had known Gordon Hammond for ten years, hadn't you? A. Yes.

Q. And during that 10-year period you and he had always been able to get along all right, hadn't you? A. Yes.

Q. You considered Gordon Hammond to be perfectly fair with [918] you, isn't that right?

A. I do.

Q. And you had reason to believe that Gordon Hammond considered you to be a good man in your job? A. I thought so.

Mr. Mouritsen: I object to that as incompetent, irrelevant and immaterial.

Mr. Clark: I want to establish the relationship between them, Mr. Examiner.

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Yes.

Mr. Clark: Very well.

Q. On this occasion when you talked this matter over with Gordon Hammond, did Gordon Hammond tell you that you could come back to work?

Mr. Mouritsen: I object to this question on the ground that it is vague and indefinite.

Mr. Clark: I will withdraw it.

Q. During this time that you talked to Gordon Hammond, Mr. Spear, while you were calling back there for your tools, did Gordon Hammond say to you in substance or effect why you hadn't come back to work? A. Never.

Q. Will you please give us, then, as nearly as you can at the present time the substance of everything said between you and Gordon Hammond at this time? [919]

Mr. Mouritsen: And that refers to the occasion when he went after his tools, is that correct?

Mr. Clark: Precisely.

The Witness: I told him I came after my tools. And he said that—well, he pointed out the wagons on No. 1 and 2. And he said, "We have a little cotton there to be ginned up there on the gin."

And he said, "You can come back to work if you want to."

And I said, "Under the same conditions?"

And he didn't say nothing, so I says, "Well, Gordon, I can't do it."

Q. (By Mr. Clark) Well, Mr. Spear, at that

(Testimony of L. A. Spear.)

time did you say to Mr. Gordon Hammond that the matter of your coming back to work was out of your hands and in the hands of Mr. Prior?

A. Not—no. I told him—we talked about the union.

Q. Yes.

A. And he asked me—at that time I heard that Mr. Prior was in town. I don't know whether Mr. Hammond told me or I told Mr. Hammond, but I had never met him; and I didn't see him any time after that on that trip.

Q. That is, you hadn't seen Mr. Prior on that particular trip?

A. And he was supposed—

Q. (Interrupting) . Is that right? [920]

A. Yes.

Q. You had met Mr. Prior before, of course?

A. Yes.

Q. I mean, many months before, isn't that true?

A. Yes, a long time.

Q. What, if anything, so far as you can remember it at this time did you tell Mr. Hammond at the time you went back to get your tool box, or your tools, rather, about Mr. Prior?

A. Mr. Prior was supposed to be negotiating a settlement with Mr. Robinson. That was his purpose up there.

Q. Mr. Louie Robinson? A. Yes.

Mr. Mouritsen: I move that the answer go out as not responsive inasmuch as the question calls for what was said at this conference.

(Testimony of L. A. Spear.)

Mr. Clark: Let me ask that question, if I may, Mr. Examiner.

Q. Are you telling us the substance of what was discussed between you and Gordon Hammond at this time? A. Yes.

Mr. Clark: All right. I move it may stay, your Honor.

Trial Examiner Lindsay: Yes, it may stay.

Now, may I suggest again: Let's try and keep our questions a little bit shorter, and that applies also to Board's counsel. A couple of your questions are pretty long. It is [921] pretty hard on a witness to follow when he starts into an answer and then to stop again and then one or two questions more interposed and then go back on the other subject.

I think we can get along faster if we will sort of follow along in a chronological order.

I would like to have that last question and answer read.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Yes. The point is, did you tell Mr. Hammond that in your conversation, that is, that Prior was supposed to be up here negotiating the contract or settlement with Mr. Robinson? Did you tell Mr. Hammond that?

The Witness: I told him or he told me.

Trial Examiner Lindsay: All right. It may stay.

(Testimony of L. A. Spear.)

Mr. Clark: All right.

Q. In other words, that was mentioned in the conversation?

A. Yes. We knew he was there or supposed to be there.

Q. Now, what, if anything, did you say to Gordon Hammond about Prior being up here?

A. I said, "All right. I won't take my tool box now. I will wait and see how this comes out and see if we can't get this matter settled."

Q. Well, Mr. Spear, did you say in substance or effect to Mr. Gordon Hammond on this occasion that the matter of your going back to work at Boswell's rested entirely with Mr. Prior? [922]

Mr. Mouritsen: I object to that as already asked and answered.

The Witness: No. [923]

Mr. Clark: All right.

Q. Did you say in substance or effect that the matter of your coming back to work at Boswell's depended upon the success of this settlement?

A. Not the success.

Q. What did you say?

A. It was understood that I was not to quit the Union. I wouldn't go back if I had to quit the Union. In other words, under the same conditions as he offered me the job before. I was willing to go back to work, ready to go back to work, but I had to wear that (indicating Union button).

Q. Mr. Spear, Mr. Gordon Hammond didn't tell

(Testimony of L. A. Spear.)

you on this occasion, which we will call the tool box conversation, that you had to quit the Union before you could come back to work, did he?

A. He told me I could come back to work, and I says, "Under the same conditions?"

And he didn't say nothing. He only nodded his head and smiled at me.

Q. How did he nod his head?

A. He did this way (nodding head affirmatively.)

Q. Affirmatively, to indicate acquiescence?

A. Yes.

I said, "Well, I can't come back to work for you. I couldn't do it." [924]

Q. Did you attend a conference which took place on or about November 28th, that being some ten days after this affair you told us about on November 18th, between Mr. Prior and Mr. Louie Robinson?

A. I didn't attend a meeting.

Q. No.

Did Mr. Prior give you a report of what happened there?

Mr. Mouritsen: I object to that as vague and indefinite. The discussions at the meeting have not been identified in any way so that the witness has a fair chance of knowing the question he is being asked.

Mr. Clark: All right. I will try to remedy that.

Q. Did you ever hear of a conversation taking place approximately on November 28th, 1938, between Mr. Prior and Mr. Louie Robinson, at which

(Testimony of L. A. Spear.)

Mr. Prior asked that the Union men be reinstated, and Mr. Robinson in turn asked Mr. Prior for a list of the men, and your name was mentioned?

A. I heard there was a meeting later—later on I heard there was a meeting. I did not hear the results of the meeting because I never saw Mr. Prior.

Q. As I understand you, Mr. Spear, you did hear some time after November 28th that there had been a meeting between Mr. Prior and Mr. Louie Robinson on the general subject of the re-employment of the members of your Union at Boswell's, isn't that right? [925]

A. I heard there had been a meeting, but I did not hear the results of the meeting.

Q. All right.

Now did you hear, with respect to that meeting, that Mr. Louie Robinson had stated to Mr. Prior that Boswell's could use you from time to time?

Mr. Mouritsen: Objected to as already asked and answered.

The Witness: I heard it on the stand the other day.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) Is that the first you heard of that?

A. That is the first time I heard Mr. Prior make that statement.

Q. You heard Mr. Prior testify to that effect on the stand in this proceeding, the other day, is that right? A. Yes.

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Let's try and not go over the same thing two or three times, Mr. Clark.

Mr. Clark: I am going to get it clearly into the record, Mr. Examiner, and I haven't pressed it with this witness.

Trial Examiner Lindsay: I believe the record shows an answer three times in three different ways on that. They all mean the same thing.

Let us not argue, Mr. Clark.

Mr. Clark: I would like to have the record read back, Mr. Examiner, to see whether I am just sitting here imagining [926] that I am not repeating these questions, or whether I misunderstood you, because I am quite sure that is the only time I have asked this man as to whether or not he had heard that his name had been mentioned at that conversation.

Trial Examiner Lindsay: To preceding questions, twice, he said he didn't hear the results of the meeting. Now, in that it covers also your last question.

Mr. Clark: My last question is——

Trial Examiner Lindsay (Interrupting): We won't argue. Let us proceed.

If I try to explain something, it isn't necessary to argue. I am only trying to get through with this, and it isn't for any other purpose other than I don't like questions asked four or five times.

Mr. Clark: I don't think the record will show that, so far as I am concerned.

May I ask for a recess at this time, your Honor?

Trial Examiner Lindsay: Yes. We will have a ten minute recess.

(Testimony of L. A. Spear.)

(At this point a short recess was taken, after which proceedings were resumed, as follows:) [927]

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Ready, your Honor.

Q. Now, Mr. Spear, I want to call your attention to the meeting in Mr. Robinson's office on the morning—withdraw that.

I want to direct your attention to the meeting on the morning of November 19th at which I think you said Mr. Prior and Mr. Gordon Hammond and Mr. Robinson and yourself and Mr. Martin were present. Have you that occasion in mind?

A. Yes.

Q. Now, will you please tell us, as nearly as you can recollect, what if anything Mr. Louie Robinson said during that meeting.

A. (Pause) I will have to lead up—

Q. (Interrupting) Let me withdraw that, please. Let me withdraw that, Mr. Spear, and I will ask you to give us the entire conversation at that meeting, in substance, as nearly as you can remember.

A. I was telling Gordon—he asked me how it was, the objection or throw-out or the fracas—he asked me to tell my story, how it happened, and I proceeded to do that. During this conversation Mr. Robinson entered.

Q. That is Mr. Louie Robinson?

(Testimony of L. A. Spear.)

A. Yes. Well, he didn't ask me to start all over. I thought maybe he would like to but he didn't suggest it and [928] Mr. Hammond didn't, and I continued with my story of the fracas, and I hadn't quite finished and Mr. Robinson says, "Well, Lonnie," he says, "That isn't the issue at all." He says, "The whole story is they didn't want your union and they so expressed themselves, a little bit forcibly I will admit, but," he said, "I didn't have anything to do with it."

Q. Now, who did you understand——

A. (Interrupting) Put his hands up here (Indicating) and he acted pretty snotty to me.

Q. He acted what?

A. Awful snotty to me.

Mr. Clark: I ask that that go out, Mr. Examiner.

Trial Examiner Lindsay: Yes. He may describe how he acted.

Q. (By Mr. Clark) Tell us what he said, but let us not have your conclusion.

That statement, the statement that the witness made goes out?

Trial Examiner Lindsay: Yes, I said it may go out.

Mr. Clark: Very well.

Q. Now, have you anything further to add to what Mr. Robinson said?

A. Oh, the conversation ensued mostly between him and Mr. Prior. I told my story and the conversation then was mostly [929] between him and

(Testimony of L. A. Spear.)

Mr. Prior. I told my story and the conversation then was mostly between those two.

Q. All right. Now, whom did you understand Mr. Louie Robinson to mean by saying that "they didn't want to accept your union?"

A. He didn't mention any names. "They" I took it to be him and the other employees.

Q. Well, did you understand that Mr. Robinson included himself in the word "they"?

A. Yes, I did. I understood that to be Louie.

Q. But he did use the word "they," is that right?

A. He did.

Q. All right.

Now, please tell us all you can remember on this occasion of the conversation which subsequently took place between Mr. Prior and Mr. Louie Robinson.

A. I don't recall any certain conversation.

Q. Do you recall any of it, Mr. Spear?

A. Right at the present time I do not recall any of it.

Q. Do you recall the substance of any of it?

A. The substance of it was, on the last, was Mr. Prior asked Mr. Robinson if we could go back to work.

He said, "No," and turned around to Gordon and says, "Go out and feel out the sentiment of the men on this subject, and we will let you know later." [930]

Q. All right.

(Testimony of L. A. Spear.)

A. Mr. Prior asked him when and he says, "Later."

"Well," he said, "Just when?"

He said, "Well, we will let you know. We will let you know." He wouldn't give no definite answer and Mr. Prior asked him for a definite answer, in other words he stated by noon, and Mr. Robinson stated that he would just let him know.

Q. Was anything said during that part of the conversation concerning the company furnishing protection to you men if you came back to work?

A. Yes, there was.

Q. Could you tell us what was said about that?

A. No, I just don't recall the words. If it was discussed, I could probably remember the statements in there.

Q. Didn't Mr. Louie Robinson say to Mr. Prior that you men were perfectly free to come back to work right away but that no extra protection would be given you?

A. He didn't say any statement like that that I know of. He might have said it. I didn't hear it.

Q. Well, is my statement in that regard refreshing your recollection concerning what was said concerning the company furnishing protection for any of your union members?

A. I never heard the word "protection" mentioned.

Q. Well, does my use of the word strike any chord of [931] recollection in your mind now which will enable you to give us anything further that was said?

(Testimony of L. A. Spear.)

A. Well, right at the present time I don't recall any particular word.

Q. Well, how about the substance of anything further?

A. Well, the substance of the matter was that we couldn't go back to work, he would have to see later. He would have to wait for something. I don't know what it was.

Q. Well, you have just told us it was until he felt out the sentiment of the other men.

A. That is what he said.

Q. I see.

A. That is what he said, sentiment of the men. He told Gordon to feel out the sentiment of the men.

Q. All right.

A. That is the words.

Q. Now at that time, Mr. Spear, and during that conversation, did Mr. Louie Robinson tell Mr. Prior, in your presence, that the members of your union would be carried on the payroll while he was feeling out the sentiment of the men?

A. In that conversation?

Q. Yes. A. He did not mention it.

Q. Nothing at all was said about that, is that right? A. Absolutely none. [932]

Q. Did you ever attend any further conversations at which Mr. Louie Robinson was present where that was discussed, namely, the carrying on the payroll of members of your Union?

(Testimony of L. A. Spear.)

A. No.

Q. You know, of course, don't you, that the members of your Union who left the Boswell plant on November 18th were carried on the payroll for some time afterward?

A. (Nodding head affirmatively.)

Mr. Mouritsen: Object to that as incompetent, irrelevant and immaterial, whether this witness knows it or not.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: He may answer.

The Witness: Yes, I know it.

Q. (By Mr. Clark) Did you have any discussion with either Mr. Hammond, Gordon Hammond, or Mr. Louie Robinson with respect to that?

A. No, sir.

Mr. Mouritsen: That is with reference to the carrying on the payroll? Is that right?

Mr. Clark: Yes.

Q. Your answer is No?

A. I never had no conversation.

Q. You were, in fact, carried on the payroll until the week ending December 8th, were you?

A. I believe it was the 6th. I believe the letter I got was [933] the 6th.

Q. Well, now, I will direct your attention, Mr. Spear, to—

Mr. Mouritsen (Interrupting): Mr. Examiner, I object to the examination of the witness about these records. We have not attempted to contest the

(Testimony of L. A. Spear.)

accuracy of these records in any way. It serves no purpose to examine the witness on it. It is something already before the hearing. We are merely wasting time going into such an examination.

Mr. Clark: I will submit it. I want the witness's statement whether he received the checks our records show.

The Witness: O. K., show me.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) Now, I direct your attention to a page in Board's Exhibit No. 3 entitled your name, "Lonnie A. Spear," and particularly to the entries 11/17, \$32.00—meaning November 17th, \$32.00; then on November 24th, \$49.00, and December 1, \$25.00, and December 8th, \$15.50.

Now, have you looked at that, and does that refresh your recollection so that you can tell us, Mr. Spear, whether you received, about these dates, checks for these approximate sums? Of course there would be Social Security deductions.

A. As well as I remember about that, that is the date of December, the last day I worked?

A. No, that is not the last day you worked. I think your testimony shows you worked last on November 18th. [934]

A. I mean in December, here, is that the 8th day of December?

Q. It indicates the 8th day of December, 1938.

A. '35. There is a "'35" up there. What does that mean?

(Testimony of L. A. Spear.)

Q. The day you first started to work on September 10th, 1935.

A. And this has reference to the 8th of December?

Q. Of 1938.

Mr. Mouritsen: Now, may we have something for the record so we know what that means?

Trial Examiner Lindsay: I don't know—it seems to me those records are in there, and it seems like a lot of waste of time, but if you feel that you want it in twice, go ahead.

Mr. Clark: I do, Mr. Examiner. I want this witness's statement on it.

Now I will ask the question:

Q. Mr. Spear, after having looked at these entries I have just directed your attention to, can you tell us whether it isn't a fact that you were paid certain sums or carried on the payroll of this Company up to and including the week ending December 8th, 1938?

A. I received pay—don't know the date—the last check was very small check, and the one preceding—I think I received two checks after we were throwed out of the place.

Mr. Clark: Well, I move that the statement of the witness "after we were throwed out of the place" be stricken as not responsive, Mr. Examiner. [935]

Trial Examiner Lindsay: It may go out.

Q. (By Mr. Clark) As a matter of fact, you received three checks, didn't you, one for the week

(Testimony of L. A. Spear.)

ending November 24th, one for the week ending December 1st, and one for the week ending December 8th? Isn't that true?

A. I received three checks when I went after them; as well as I understand, one of them was for the week I had worked. I hadn't gotten the check. It doesn't matter.

Q. You had worked one day, namely, November 18th, on the week which ended November 24th, isn't that right?

A. I worked about five or ten minutes. We won't fight about that.

Q. You were paid for the full week, weren't you?

A. We were paid for around a full week.

Q. All right.

Now, didn't you discuss with anyone at all from the Company the fact that you were being paid for a time during which you were not actually working?

A. No. The Company never notified me.

Q. You took the money, of course?

A. Yes. I knew I was going to get it.

Q. Well, how did you know you were going to get it?

A. I heard from the investigator, that is, the Board's investigator, Mr. Larson.

Q. And when did you hear that from him, please? [936]

A. Well, it was sometime after that, after he came down. I presume it was on the day that he left, got through with his business.

Q. Well, can you place that for us, just approxi-

(Testimony of L. A. Spear.)

mately, with respect to November 18th? Was it—
how long after November 18th was it?

A. Two or three days.

Q. Two or three days, and did Mr. Larson—

Trial Examiner Lindsay (Interrupting): Was
that two or three days? I thought he said two or
three weeks.

The Witness: No, days. He came down right
away after this fracas.

Mr. Clark: Yes.

Q. And did Mr. Larson tell you that the Com-
pany was going to carry you on the payroll for a
while? A. Uh huh; he did.

Q. What did he tell you about that?

A. They didn't want us on the property, he would
rather pay us and keep us off the property until we
straightened the matter out. [937]

Q. Now, who was "he"?

A. That was Louie.

Q. You mean Louie Robinson? A. Yes.

Q. So that Mr. Larson told you the arrangement
he had made with the company was that they were
to continue to pay you until the matter was straight-
ened out, is that right?

Mr. Mouritsen: I object to that on the ground
it is assuming facts not in evidence—

Mr. Clark (Interrupting): I will withdraw that.

Mr. Mouritsen (Continuing): —and that it is
misleading.

Mr. Clark: May I have it read back? I may not
want to withdraw it, Mr. Examiner.

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I will withdraw that question and ask you this, Mr. Spear:

Q. Did Mr. Larson tell you how it came about that such an arrangement was made?

Mr. Mouritsen: I object to that as assuming facts not in evidence, that an agreement was made.

Mr. Clark: I will submit it. This is cross examination. [938]

Trial Examiner Lindsay: If such an arrangement were made, you may answer.

The Witness: He stated the fact that—he just stated that Mr. Robinson didn't want us up there and he would rather pay us for the short interval of time on the job that we was working on rather than to have us come back there and he stated, as far as the negotiations, he didn't have anything to do with that, between us and Mr. Robinson.

Q. (By Mr. Clark): I understand that.

A. That was out of his line, he would help, do all he could, but at the present time he could not do any more, and just wait developments.

Q. What did you understand Mr. Larson to mean by his reference to the short time that remained on your jobs, I think you said?

A. The jobs that we were on.

Q. I see. A. At that time.

(Testimony of L. A. Spear.)

Q. In other words, you told us on your direct examination, didn't you, Mr. Spear, that as early as October 10th the work was running out and there were certain men being kept on for which the company really had no need, isn't that true?

A. I think you misquoted.

Q. Will you please state correctly, then, what you meant? [9:39]

A. At that time the work was picking up, but we didn't have enough work for the men employed at that time without we started the mill; then we would really be short-handed. In other words, they worked a few less men than they had previously worked in the mill.

Q. But didn't you say at the time you had this meeting, which I think you placed as somewhere about October 5th to October 10th that the company had been carrying some men for whom really it didn't have any use?

A. That was my opinion, that if I had been a foreman that we really didn't need those men.

Q. I see.

A. They was going to lay those men off. They got their orders that he was going to have to lay them off unless we started the mill. That is what the conference was for, to work out some method to keep these men from being laid off.

Q. And it was at that conference, wasn't it, that you saw the letter circulated among certain employees as to whether they wanted to work 8 or 12 hours?

A. Yes.

(Testimony of L. A. Spear.)

Q. And also the letter from Colonel Boswell stating that it would be more advantageous to him not to operate the mill but to keep the seed in storage, isn't that right? A. That is correct.

Q. Yes. Now, as a matter of fact, the season of 1938 to [940] 1939 was a very short season, wasn't it? A. It was.

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I submit it, if he understands, Mr. Examiner.

Mr. Mouritsen: What does a short season mean, Mr. Examiner?

Mr. Clark: He answered it was.

Q. What do you mean by that?

A. Decrease in acreage; it was a short season.

Q. (By Mr. Clark): What did you observe, Mr. Spear, in your work there during the fall of 1938 as to the difference between the preceding season and the '38 season?

A. There was no night crew.

Q. I see. Well, do you happen to know, or did you hear what the amount, the total amount of cotton was which was ginned in the season 1937 to '38—in the season 1938 to '39, as against the '37-'38 season?

Mr. Mouritsen: Now, I object to the question.

Mr. Clark: I asked him whether he heard.

Mr. Mouritsen: It is also confusing and involved.

(Testimony of L. A. Spear.)

Mr. Clark: Oh, I will withdraw it.

Q. So that, Mr. Spear, coming back again to the period after November 18th you understood then, I take it, that the work was running out, anyway? [941]

Mr. Mouritsen: Objected to.

Q. (By Mr. Clark): Is that so?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

The Witness: The work was——

Mr. Mouritsen (Interrupting): No, no.

Q. (By Mr. Clark): Was the work running out about November 18th?

A. Shall I answer?

Trial Examiner Lindsay: Yes.

The Witness: The work was running out.

Mr. Clark: Yes.

The Witness: At the gins.

Q. (By Mr. Clark): Yes. And did you understand that the paychecks that you received for two or three weeks, whatever it was, after November 18th, were paid to you on the basis of the jobs you had held on November 18th just as though you had continued working?

Mr. Mouritsen: I object to that on the ground it is vague and indefinite. It is too general. It doesn't state any specific instance. It isn't a fair question.

(Testimony of L. A. Spear.)

Mr. Clark: I will submit that.

Trial Examiner Lindsay: Sustained. I think we have [942] covered that.

Mr. Clark: I would like to know what this man's understanding is of the arrangements, because it is of the utmost importance to us in this case. I just want to get all of the facts in this. That is all.

Trial Examiner Lindsay: My ruling is that it was sustained on the ground that I feel we have covered that completely. The answer is in there and that he received the checks for the jobs that they had no November 18th.

Mr. Clark: Well now, this further question, Mr. Examiner—

The Witness (Interrupting): I would like to answer that question.

Trial Examiner Lindsay: Well, all right. Answer it. [943]

The Witness: We would have been employed the full week of six days at other work, whether the gins run or not, if this fracas had not come up.

Q. (By Mr. Clark): Well—

A. (Interrupting): It was the custom and always had been until the season was over completely, they kept all of the men.

Q. Well, is that what you base that statement on, namely, that it was the custom of Boswell's to keep all of the men? A. Yes, sir.

Q. Well, as a matter of fact, you had been laid off for two or three months that very Spring, hadn't you? A. Yes, I had.

(Testimony of L. A. Spear.)

Q. At least from February up to around the first of June? A. Yes.

Q. And then from some time early in 1933 on to September, 1934, or a period of 18 months, you had been first laid off and had then left, because of the conditions at this plant, isn't that true?

Mr. Mouritsen: I object to the question on the ground I can't hear it, Mr. Examiner.

Trial Examiner Lindsay: May I have that question read?

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to it on the ground it is vague and indefinite, unintelligible. [944]

Mr. Clark: I will submit it. The record will speak for itself.

Trial Examiner Lindsay: I think you should reframe that question.

Q. (By Mr. Clark): Well, you have been laid off for a period of 18 months from early in 1933 to September, 1934, hadn't you?

A. I was laid off in the previous Spring, but Mr. Hammond wrote me a letter and said I could come back, but I didn't come back, so I would have been there that Spring.

Q. And you didn't come back, Mr. Spear, because the conditions at the plant didn't look good, I think you said? Isn't that right?

A. No, I didn't mention that. I didn't get the letter, so I missed one gin season.

(Testimony of L. A. Spear.)

Q. And that is during this 18 months' period we are talking about?

A. Yes, I didn't get the letter, so I didn't come back.

Q. But you testified in your direct examination that during previous years, I think '31 and '32, you had been laid off for as much as three months at a time?

A. The whole plant was laid off, not myself but everybody. That was during the depth of the depression.

Q. That wasn't true during the 18 months' period we are talking about? [945]

A. No.

Q. That wasn't true during the Spring of '38, was it?

A. No, there was work going on then. I was laid off in '38.

Q. Yes.

I want to direct your attention, Mr. Spear, to the conversation which you have stated as being sometime around the 5th to the 10th of October, 1938, or just before the mill opened, I think you said, in the Fall of '38, at which you and Mr. Martin and Mr. Farr and Mr. Gordon Hammond were present.

Do you remember that occasion?

A. Yes, I do.

Q. Your answer?

A. Yes, I do, somewhere around there.

Q. You made some statement regarding pressure which had been put upon some of the prospective members of your Union; is that right?

(Testimony of L. A. Spear.)

A. Mention those dates, will you please?

Q. Well, it is the conversation——

A. (Interrupting): The 17th?

Q. (Continuing): ——the conversation you placed as being shortly before the mill opened in October, 1938, and I think you gave the date of that as occurring sometime between October 5th and October 10th, approximately?

A. I remember the date. [946]

Q. And do you remember that conversation?

A. About the pressure?

Q. Well, do you remember this particular conversation I am trying to call your attention to?

A. I remember the meeting.

Q. All right.

That was what I want.

You said something to Mr. Gordon Hammond about pressure being put upon some of the prospective members of your Union, didn't you?

A. I did.

Q. Now, by whom was that pressure being exerted?

A. Right at this time, I don't recall whether we mentioned the parties or not. I don't think so. I don't think the names of the parties were mentioned who were exerting the pressure, or who had received the pressure. I merely mentioned to Gordon that this came to my attention that pressure had been exerted, and I didn't pay much attention

(Testimony of L. A. Spear.)

to it, and just merely mentioned it to Gordon, and we forgot about the matter.

Mr. Mouritsen: Mr. Examiner, may that question be read? I think the witness by his former answer has indicated that he didn't understand the question.

Trial Examiner Lindsay: Will you read the question and answer?

(The record referred to was read by the reporter, as [947] set forth above.)

Mr. Mouritsen: Now, may the witness be instructed to answer the question?

Mr. Clark: The question is answered. I submit it, Mr. Examiner.

Trial Examiner Lindsay: Read the question. When did you mean?

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: As I understand that question, it means calling for an answer now telling us, if you know, who was using the pressure if such had been used.

Is that your question?

Mr. Clark: That is the question.

Trial Examiner Lindsay: That answer may go out, then.

The Witness: You wish me to state who exerted the pressure?

(Testimony of L. A. Spear.)

Q. (By Mr. Clark): That is right; concerning which you were talking to Gordon Hammond. If you know.

A. I believe that Joe Briley was the party that had the pressure. In other words, he was told that he was liable to lose his job, or he would lose his job and——

Mr. Clark (Interrupting): Just a minute. Mr. Examiner, I ask that go out as not responsive. The question as now asked the witness is, who exerted the pressure.

Trial Examiner Lindsay: Yes, that may go out. [948]

Q. (By Mr. Clark): So far as you understand.

A. Tommy exerted the pressure.

Q. Tommy who?

A. Tommy Hammond and Bill Robinson. They were the parties that made the remarks.

Q. I see.

A. Those are the ones I remember. Those—they were the parties.

Q. That is, so far as your understanding was concerned?

A. So far as I knew about it. It was only hearsay. I didn't hear the threats myself, or the remark.

Q. I see.

And you didn't tell Mr. Gordon Hammond who was doing it? A. No, I didn't.

Q. Did Mr. Gordon Hammond tell you and Mr. Martin and Mr. Farr, at the time of this conversa-

(Testimony of L. A. Spear.)

tion, that so far as the Company was concerned, you men were absolutely free to join any Union you wanted to?

A. I am not sure whether he mentioned that fact or not. He might have.

Q. Did he ever mention that fact to you?

A. Yes, he has to me.

Q. And when was the first time that you remember?

A. Well, I don't recall the time. We had several little chats now and then. [949]

Q. Well, do you think it was before this October meeting? A. Yes.

Q. And do you think that it was as much as a month before this October meeting?

A. It could have been.

Q. And could it have been two months before?

A. It could have been.

Q. I see.

Now, when was the last time that Mr. Gordon Hammond ever made such a statement to you?

Mr. Mouritsen: That refers to a statement that the witness is free to join the Union at any time?

Mr. Clark: That is true.

Trial Examiner Lindsay: Do you understand the question?

The Witness: No.

Q. (By Mr. Clark): Mr. Spear, you have told us that Mr. Gordon Hammond on several occasions told you that so far as the Company was concerned,

(Testimony of L. A. Spear.)

you were perfectly free to join any Union you chose, and then I asked you when those statements were made—any such statement was made to you by Gordon Hammond; and you told me “several times.”

Then you said that it might have happened as much as one month or two months before the October meeting.

The Witness: He didn't make the statement several times. We talked several times about it. [950]

Mr. Clark: All right.

Trial Examiner Lindsay: And that was your testimony, is that right?

The Witness: Yes.

Q. (By Mr. Clark): How many times would you say that Mr. Gordon Hammond made the statement substantially as I have made it to you, that you were free to join a Union if you wanted to, so far as Boswell Company was concerned?

A. I don't remember of him any specified time, but he did tell me that he could not say whether a man could not or could. He couldn't tell a man whether or not he could or could not join a Union.

Q. And when was the first time he told you that? If you remember?

A. I believe that was in about when they first had that meeting, when Mr. Prior first came up here.

Q. You mean about July?

A. A few days after.

Q. You mean about July, 1938; is that right?

(Testimony of L. A. Spear.)

A. That is right.

Q. Now, you joined the Union on September 2nd, 1938? A. I don't remember.

Q. Well, is it about September of 1938 that you joined?

A. I couldn't state. It was sometime in September. It might have been later, it might have been before, I don't think it was [951] in August, I am pretty sure.

Q. After you joined the Union, you told Mr. Hammond that you had joined, didn't you?

A. I probably did, or let it be known some way or another. I don't know. I don't think so, but I can't tell.

I believe it was not known, since I recall the matter, because Joe accused me of being the president of the Union, and I had never joined the Union at that time.

Q. When was that, if you know?

A. That was in September when Joe was talking to me.

Q. All right.

Trial Examiner Lindsay: Joe Hammond?

The Witness: Joe Hammond.

Q. (By Mr. Clark): But at this meeting of October 5th or 10th, that is, the meeting we have placed as being approximately around the 1st of October at which the pressure was discussed, didn't you and Mr. Farr and Mr. Martin meet with Mr. Gordon Hammond as a committee from the Union?

(Testimony of L. A. Spear.)

A. Yes, we did.

Q. And didn't you tell him at that time that you all were members of this Union?

A. We told him—I told him that we were a committee sent up to talk the matter over with him, and we represented the Union boys.

Q. Yes. [952]

A. The prospective members, or something to that effect.

Q. I see.

A. I don't even know at that time whether we had got the charter or not. I don't believe we had.

Q. All right.

A. But we considered ourselves Union members because we had signed the application, and we were meeting.

Q. Yes.

How long had you been meeting before that, if you can remember that approximately?

A. Oh, I don't know.

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I will submit it. It is very important.

Trial Examiner Lindsay: He may answer.

The Witness: I don't remember.

Q. (By Mr. Clark): As much as a month?

A. We had met. That is about all I can say.

Q. Had you been elected the head of the organization at that time, by early October?

A. No.

(Testimony of L. A. Spear.)

Q. Prior to this early October meeting, had you or Mr. Farr or Mr. Martin, to your knowledge, solicited other employees in the Boswell plant to join the Union?

A. Yes, sometime previous to that or afterwards, around that time—from that time on we did solicit members. [953]

Q. I see.

Were you present, Mr. Spear, at a meeting on October 8th of 1938, at which Mr. Prior and Mr. Gordon Hammond were present?

A. Well, I don't remember ever meeting with Mr. Prior and Mr. Hammond except one time, and that was later, after the fracas.

Q. I see. All right.

A. And we did it for the purpose of an appointment with Mr. Robinson.

We came up to meet Mr. Robinson and he was out.

Q. That was at a later time?

A. That was at a later time. We didn't discuss it.

Q. You have no recollection of having met in early October with Mr. Prior and Gordon Hammond?

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): Did you attend the meeting on the morning of November 17th, 1938?

(Testimony of L. A. Spear.)

A. I did.

Q. At which were present Mr. Prior and Mr. Gordon Hammond and yourself and Mr. Farr and Mr. Martin, I believe?

A. Yes.

Q. Have you that particular event in mind?

A. Yes, I know it.

Q. All right. [954]

Now, what, if anything, was said on that occasion, Mr. Spear, concerning the arrangement which you described as the 8-hour plan in your direct examination?

A. We discussed the matter and Mr. Hammond said he thought he could work out some plan to save Number 4 from being laid off, and we left the matter in that stage. And that is about all there was to it.

We suggested that they reduce the hours in the gin so that Number 4 would not be laid off. He said he would think it over and check it over and see what could be done about it.

Q. At that time, who was operating Number 4 gin, Mr. Spear?

A. Mr. Martin.

Q. All right.

And will you tell us how this so-called 8-hour plan came into being, that is, who thought of it?

Mr. Mouritsen: Objected to unless the witness knows or recalls.

Mr. Clark: That is all I am after.

Trial Examiner Lindsay: Well—off the record.

(Discussion outside the record.)

(Testimony of L. A. Spear.)

Trial Examiner Lindsay: On the record.

Mr. Clark: I will withdraw the question and re-frame it.

Q. Will you tell us what you mean, Mr. Spear, by your reference on your direct examination to the 8-hour plan?

Mr. Mouritsen: Objected to as incompetent, irrelevant and [955] immaterial, vague and indefinite.

Mr. Clark: Submit it.

Trial Examiner Lindsay: If he understands, he may answer.

The Witness: To save Number 4 gin from being laid off, Mr. Farr suggested that it could be done by putting the men on eight hours in the gin.

Q. (By Mr. Clark): I see.

A. And Mr. Hammond said that he would think it over and consider it, and we left the matter right there.

Q. All right.

That suggestion was made by Mr. Farr at a Union meeting on the night before, that is, on the night of November 16th, isn't that right?

A. It probably was. I believe it was. We were a committee, anyway.

Q. And then this committee of yours and Mr. Martin and Mr. Farr, together with Mr. Prior, went to call on Mr. Gordon Hammond at the plant on the following morning, that is, November 17th, isn't that so?

A. That is so.

Q. All right.

(Testimony of L. A. Spear.)

And then a suggestion was made by someone of you to the effect—or rather, requesting that the hours be reduced to eight hours, and the work split up among the four gins so that [956] Number 4 gin could continue operations a few days longer? Is that right?

Mr. Mouritsen: I object to that as compound and misleading.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): What was the objection made, then?

This is cross-examination, Mr. Examiner, I would like to point out again. I am being terrifically handicapped in the cross-examination of this witness, I submit.

Trial Examiner Lindsay: You are not being handicapped. In the first instance, Mr. Clark, that has been entirely gone over, and it isn't necessary that you constantly stop me on every ruling that I make, and it isn't necessary that you make such statements, because you have been given extraordinary leeway on cross-examination.

Now, if you will break your question down and see what you have here.

Mr. Clark: May I have the question read back, then?

Trial Examiner Lindsay: Please don't start in until I get through talking, Mr. Clark. It is hard on the reporters and it is hard on everyone.

(Testimony of L. A. Spear.)

Mr. Clark: Well——

Trial Examiner Lindsay (Interrupting): Just a moment. Will you please read back the question? [957]

Mr. Clark: I would like to state, Mr. Examiner, for the purpose of this record, and so it will be clearly apparent what is happening——

Trial Examiner Lindsay (Interrupting): Just a moment, Mr. Clark. Proceed. I said you may ask the question and I am having it re-read.

Now, I am not going to have you constantly interrupting me in this hearing. You are an attorney of record and you understand the procedure, and I am not denying you a thing. All of these statements are unnecessary.

Now, read the question, please.

Mr. Clark: Now, I would like permission to make a statement for the record.

Trial Examiner Lindsay: Your statement is not necessary at this time.

If you have an objection—and you would be out of order on that, because I am asking that the question be re-read as you requested—now, let us not get into these unnecessary arguments.

Read back the question, please.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Well, he may answer the question if he understands it.

The Witness: Mr. Farr suggested to Mr. Ham-

(Testimony of L. A. Spear.)

mond the [958] 8-hour proposition to save the gin from being laid off. He said he would think it over and see what could be done about it.

Q. (By Mr. Clark): Is that all Mr. Gordon Hammond said about that subject?

A. That is all he said as well as I remember. That is all he said.

Q. Was there any suggestion made at that time regarding the time the gin would be started the following day?

A. No, no. Nothing was said about it—in fact, we didn't know whether he would act on the suggestion or not.

Q. What time did you go to work on the morning of November 17th?

A. Oh, I guess it was 7:00 o'clock.

Q. What time did you go to work on the morning of November 18th?

A. 10:00 o'clock, a few minutes after that.

Q. How did you find out you were going to work a few hours later on the morning of the 18th than you had on the 17th.

A. Tommy came over about 5:30 or something like that and told me the time to go to work.

Q. I see. And did you understand that that was part of this plan which had been suggested that morning to Mr. Gordon Hammond? [959]

A. I thought that he had acted upon it and considered it and decided that it was a very good plan.

Q. That is the first morning that season that you had gone to work that late, isn't that true?

(Testimony of L. A. Spear.)

A. Outside of a lack of cotton or rainy weather or something like that. I think we were told to come back as late as 10:00 o'clock.

Q. I understand that, but assuming a normal situation where you had plenty of cotton and the weather was all right, the gins had uniformly opened up at 7:00 o'clock, isn't that true?

A. 6:00 o'clock, but if there was a shortage of cotton we would sometimes come at 7:00, sometimes 8:00, and sometimes 10:00; but I don't know how they get it outside of just from the amount of cotton that usually comes in, I presume, but anyway they would usually tell us before quitting time or just at quitting time what time to come back at that time.

Q. Are you finished now? A. Yes, I am.

Q. Now, during this conversation on the morning of November 17th was anything said by Mr. Prior to Mr. Gordon Hammond concerning any further pressure on prospective members of your union?

A. Mr. Prior never mentioned anything about it as well as [960] I remember. I did.

Q. Did you say anything further about it on the morning of November 17th? A. Yes, I did.

Q. What did you say, please?

A. I called his attention to the fact that pressure was being exerted, and he said if it was it wasn't authorized, and he would check into it and stop it.

(Testimony of L. A. Spear.)

He also stated—I told him that I could bring in the parties who had told me if he wanted to, and he said that he didn't think it would be necessary, that they would probably deny it, and we wouldn't get any further with it and so we dropped the matter.

Q. Is that all that was said on that subject matter at that time?

A. Well, there was some discussion there about who was a union member and I believe that I made a statement that I would or could in the future give him a list if it was necessary for him to have them of the union members; and Mr. Prior said that that was the wrong thing to do and wouldn't think that it would be the right thing to do so we dropped it. [961]

Q. I see.

After November 18th, Mr. Spear, did your union initiate a boycott against Boswell Company.

A. After the 18th?

Q. After November 18th? A. Yes, we did.

Q. And approximately how long after November 18th was that action taken?

A. I believe it was the next day.

Q. The 19th? A. Yes.

Q. Is that right? A. Yes.

Q. And was that taken or was the mechanical means of starting that in effect a telegram over your signature? A. It probably was.

Q. Do you remember any such telegram?

(Testimony of L. A. Spear.)

A. There was a telegram sent.

Q. And to whom was that sent?

A. Well, I don't recall. It was very exciting times at that time.

Q. I understand that.

A. I believe it was—I don't recall the party it was sent to.

Q. That telegram bore your signature, that is, bore your [962] name as the sender, didn't it?

A. It probably did. I was the president of the organization.

Q. But you didn't in fact read the telegram before it went out, did you?

A. I didn't read the telegram. I knew what the contents were, about what the contents were.

Q. In other words, you didn't actually send it, did you?

A. I didn't. I authorized the sending of the telegram.

Q. Do you know who did send it?

A. No, I don't. Mr. Prior or Mr. Martin sent the telegram.

Q. And isn't it a fact—

A. (Interrupting): I presume.

Q. All right.

Isn't it a fact that you didn't learn about it until later?

Mr. Mouritsen: That is objected to as already asked and answered. The witness said he authorized—

(Testimony of L. A. Spear.)

Mr. Clark (Interrupting): I will submit that has not been asked and answered.

Trial Examiner Lindsay: He may answer.

The Witness: I knew the telegram had been sent right away.

Q. (By Mr. Clark): And how long after, please? [963]

A. Well, I heard about the result a short time—I don't recall the time.

Q. I see. The same day, you think? Namely, November 19th?

A. I don't think I heard the result that day.

Q. I see. A. Don't think so.

Q. Now, was there any strike action taken by your union against Boswell?

Mr. Mouritsen: I object to that—

The Witness (Interrupting): No, we were—

Mr. Mouritsen: Withdraw the objection.

The Witness (Continuing): We were locked out. In other words, we considered that a lock-out. We didn't go on strike.

Q. (By Mr. Clark): How soon did you in your union meeting, or in conversation with each other, arrive at the determination that you were being locked out?

A. As soon as we had the meeting in the afternoon.

Q. And that is on the afternoon of November 18th?

A. (Pause)

Q. Or November 19th, which?

(Testimony of L. A. Spear.)

A. I believe it was the 19th; yes, it was.

Q. On the afternoon of November 19th?

A. Yes.

Q. Is that right? [964]

A. That is right.

Q. And who suggested the term "lock-out" to you?

A. I believe Mr. Prior stated the rules and regulations concerning procedure, what had been done and conditions before this and like conditions—I wouldn't say like conditions, under conditions that was unfavorable to the parties, I might state it that way.

Q. I see.

What members of the union attended that meeting on the afternoon of November 19th, do you remember? A. Most all of them.

Q. Can you name them for us?

A. Well, there was—

Mr. Mouritsen (Interrupting): Objected to as incompetent, irrelevant, and immaterial; and not tending to prove or disprove any of the issues in this matter.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Had you personally, Mr. Spear, authorized the filing of any charges against the Boswell Company prior to November 18, 1938?

Mr. Mouritsen: Objected to as incompetent, ir-

(Testimony of L. A. Spear.)

relevant and immaterial; not tending to prove or disprove any of the issues in the case. [965]

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): Now, I want to direct your attention, Mr. Spear, to a conversation occurring approximately on the 17th day of January, 1939, in the administration building or the office building, rather, on the Boswell property—that is the plant—at which I believe you were present and Mr. Prior was present, Mr. Louie Robinson, and Mr. Maurice Howard of the National Labor Relations Board.

Do you remember that meeting?

A. I remember the meeting.

Q. Now, can you—withdraw that.

Am I correct in stating that occurred about or on January 17, of this year?

A. Some time around about that. I don't remember the date.

Q. The middle of January anyway, is that right?

A. Well, it is quite a while after the first of the year.

Q. And can you give us, as nearly—will you give us, rather, as nearly as you can now, the persons who were present?

A. I can give you quite a number of them.

Q. Please try to do that.

A. I was there; Mr. Prior, Walt Winslow, Mr.

(Testimony of L. A. Spear.)

Andrade, Bill Robinson, Kelly Hammond, "Cowboy" was there, Johnston.

Q. Is that Johnston? [966] A. Yes.

Q. Who is named "Cowboy"?

A. Yes. Oh, there was others—I can't recall. I didn't pay very much attention to the crowd. I was paying mostly attention to the conversation that ensued.

Q. Now, on that occasion—withdraw that.

What was the purpose of that meeting, as you understood it?

A. To a fact that—well, a compromise so we could go back to work.

Q. And who did the talking, please, from the standpoint of you men?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: Submit it.

Mr. Mouritsen: It is vague and indefinite, Mr. Examiner, what is meant by the viewpoint of—

Mr. Clark (Interrupting): All right.

Q. Was there a spokesman so far as the members of your union were concerned at that meeting?

A. None for the union that I recall.

Q. Was Mr. Prior there?

A. I don't recall whether he was there or not.

Q. Well, didn't Mr. Howard do some talking for you?

A. He was—as I understood it, he was an investigator. [967] He was an investigator like Mr.

(Testimony of L. A. Spear.)

Larson was. He is not on our side. As I understand his duties, he went around and got information regarding the troubles and things that would occur.

Q. Yes. Well, did he do the talking so far as—was he the spokesman for you men from the union?

Mr. Mouritsen: Objected to as vague and indefinite.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Now, on that occasion, Mr. Spear, did you state in substance or in effect to the persons present that no one had told you to go home on the morning of November 18th, but that some of you union men stated to each other that you thought you better go home until things were straightened out?

A. (Pause). State that again. I don't believe I just quite get it.

Mr. Clark: May I have it read back, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

The Witness: I don't just quite get it. It is a little bit too long of a question.

Mr. Clark: Let me split it up for you if I can.

Q. At this meeting on January 17th which we have just located and at which Mr. Maurice Howard was present, did you [968] state, in substance, or effect, to the persons present, that on the morning

(Testimony of L. A. Spear.)

of November 18th no one had instructed you to go home from the Boswell plant?

A. I don't think I made any statement like that.

Q. Do you remember some statement to that general effect?

Mr. Mouritsen: Objected to as already asked and answered.

Q. (By Mr. Clark): Do you remember that subject matter being discussed?

A. I told the story of how the fracas happened.

Q. Well, let me direct your attention to the particular thing that I asked you in the question put to you a few moments ago, namely, do you remember making any statement at the meeting at which Howard was present concerning the conditions under which you left the plant on the morning of November 18th?

A. I told the story there just how we was throwed out, ejected, and the parties came up there told us we better leave until we get it straightened out.

Q. Now, is that—

A. (Interrupting): No union man said to me or suggested to me, that I can recall, that we leave.

Q. Well then, is it your testimony, Mr. Spear, just so that we will be clear about it, that you did not state, in substance or effect, at the January 17th meeting, that no one [969] had told you to leave the plant?

A. I don't remember making any statement like that. We were told to leave.

(Testimony of L. A. Spear.)

Q. And that is the statement you made to the persons assembled at the meeting of January 17th, is that right?

A. As well as I can remember, that is exactly the way I told it and as I have always told it, as it occurred.

Trial Examiner Lindsay: It is 12:00 o'clock.

Mr. Clark: Very well.

Trial Examiner Lindsay: We will adjourn until 2:00.

(Thereupon, at 12:00 o'clock noon, the hearing was adjourned until 2:00 o'clock p. m., of the same date.) [970]

After Recess

(Whereupon, at 2:00 o'clock p. m., the hearing was resumed.)

Trial Examiner Lindsay: Hearing called to order.

Mr. Mouritsen: Ready for the Board.

Mr. Clark: Ready for the respondent, Mr. Examiner.

L. A. SPEAR

the witness on the stand at the time of recess, having been previously duly sworn, resumed the stand and further testified as follows:

Cross Examination

(Continued)

Q. (By Mr. Clark) Now, Mr. Spear, just before the noon recess we were talking about a con-

(Testimony of L. A. Spear.)

versation in January of 1939 which I think you placed at about January 17th.

Have you that occasion in mind?

A. I don't remember the date, that it referred to.

Q. Well, you do remember the conversation, or rather the meeting, don't you?

A. I remember we were talking about some conversation in January.

Q. Yes. Now, I would like to ask you whether or not on that occasion you stated, in substance or effect, to the persons present that no one at the Boswell plant had threatened you or any of the other members of your union on the morning of November 18, 1938?

A. As I remember, I didn't make any such statement at that [971] meeting. You refer to Mr. Howard's?

Q. I am referring to what we will call the Howard meeting. Did you make any statement to that effect at that meeting?

A. Not that I can recall.

Q. Did you hear any such statement as that made at that meeting by anyone connected with the union?

A. Not that I can recall.

Q. I understand then that you have no recollection on that subject matter at all, is that true?

A. Not that; not that.

Q. All right.

Now, just so we may be clear about it, Mr. Spear, am I not correct in stating that the meeting of Janu-

(Testimony of L. A. Spear.)

ary 17, 1939, which we will call the Howard meeting, was held for the purpose of reviewing what had happened at the plant on November 18th?

A. Well, perhaps that was what it was. I don't know. I thought it was for the purpose of patching up the differences. I never had anybody tell me what it was for. I was called down there hurriedly and I directly went right in there and I never asked anyone before or after.

Q. But were the facts or were the events of the morning of November 18th discussed at this meeting?

A. They were.

Q. All right. Then will you please tell us whether or not [972] at that time and place you stated, in substance or effect, to the persons present, that no intimidation or violence of any kind as against the union men had occurred on that morning, that is, November 18th?

A. Mr. Bill Boswell asked me if I was man-handled and treated rough and abused. That is the only reference that I can recall.

Q. All right. Now, will you tell us what if anything you said on that occasion in that respect?

A. I don't recall any specific words.

Q. Well, will you give us the gist of it or the substance of it?

A. Well, as I remember, Mr. Bill Boswell asked me if I was treated rough, swore at me, or something to that effect. I told him, as well as I remember, that I wasn't treated so very rough, that I was man-

(Testimony of L. A. Spear.)

handled, but I didn't consider it so awfully bad; I was still there that day.

Q. Didn't you tell the people present at that so-called Howard meeting on January 17, 1939, in response to Mr. Boswell's question, that in fact no one had hurt you or cursed you or hit you in any manner?

Mr. Mouritsen: May I have that?

Mr. Clark: I will split it up, then.

Mr. Mouritsen: No, I think you said Mr. Boswell.

Mr. Clark: I did, in response to Mr. Bill Boswell's [973] question.

Q. It is Bill Boswell you are talking about, aren't you? A. Yes.

Mr. Clark: Yes.

Mr. Mouritsen: I am sorry.

Q. (By Mr. Clark) Mr. Bill Boswell was present at this meeting, wasn't he? A. He was.

Mr. Clark: Now, may I have the question read back, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I told Mr. Boswell that they didn't hit me. They didn't curse me, but I was manhandled—I guess that would be the word, proper word—I was treated a little rough in my journey from the place over to the office. [974]

Q. (By Mr. Clark) Well, Mr. Spear, isn't it a fact that you went over to the office on the morning of November 18th in the manner you have described already for us, entirely of your own volition?

(Testimony of L. A. Spear.)

A. No, I struggled. I struggled half way to that gate, and I was completely exhausted when I got over to the office.

Q. Were you trying to get to the office? Is that what I understand?

A. I wasn't trying to get anywhere. I was propelled along in a vice-like grip; and I struggled to get loose and I couldn't.

Q. All right.

Do I understand that you didn't want to go to the office at all, then?

A. I didn't want to go anywhere.

Q. You wanted to stay right where you were next to the gin, is that right?

A. Yes, that is a fact.

Q. Now, at this meeting on January 17th, 1939, will you please state whether Mr. Howard said in your presence and hearing, in substance or effect, that you would have been within your rights if you had shot these three men who were taking you over to the superintendent's office?

A. Oh, I don't remember anything he said. I was talking to Mr. Boswell at the time, and I was looking at him. [975]

Q. Do you remember anything that Mr. Howard said in that connection in which statement he referred to your right to shoot anybody?

A. I don't recall anything like that.

Q. Have you any recollection at all on that?

A. Yes, he was there, and he was talking to the

(Testimony of L. A. Spear.)

boys. He was talking to Kelly Hammond and Bill. I believe he questioned him.

Q. Do you remember on that occasion—or, rather, did Mr. Howard say to the persons at that meeting in your presence and in your hearing, Mr. Spear, that if this had happened to him, Howard, and if he had a gun, he would have shot these three men?

A. I never paid much attention to him.

Q. Well, will you say that he didn't make that statement at the meeting of January 17th?

A. I didn't pay much attention to him. He was talking to Kelly and Bill, and I think some of the other boys made statements to him; and I didn't pay very much attention to what they told him. I had gone over the whole thing before, and it didn't interest me very much.

Q. Well, what, if anything, do you remember Mr. Howard saying in that regard?

Mr. Mouritsen: Objected to as already asked and answered several times. [976]

Mr. Clark: I withdraw that.

The Witness: I don't remember any particular words. I couldn't recall without I would have some words leading up to it, see?

Q. (By Mr. Clark) Do you remember the substance of anything that Mr. Howard said at the meeting of January 17th, 1939, which we have been discussing?

A. Well, he asked us boys how it happened, as well as I remember, and we told him, all of us.

(Testimony of L. A. Spear.)

Q. And Mr. Louie Robinson was there, and Mr. Bill Boswell was there, isn't that right?

A. Mr. Boswell was there. I don't know whether Louie was there or not. I couldn't tell you.

Q. Can you give us anything else that Mr. Howard said?

A. No, I don't remember very much about what he said. It didn't interest me, because I had gone over it, and I thought that they was going to get together on a compromise of some kind.

Q. Do you remember any mention by Mr. Howard of a gun? A. Well—

Mr. Mouritsen (Interrupting): Objected to as already asked and answered.

Mr. Clark: I will submit it, your Honor.

Trial Examiner Lindsay: He may answer it again if he remembers. [977]

The Witness: I don't think I recall anything about a gun. He was—he was a little bit upset, since you remind me of it, and he moved the chair from the table I was on and backed up, and I don't know what he was going to do; and he went and sat down. And since you recall it, he done that, and he said some words, but I don't know what he said.

Q. (By Mr. Clark) Who did he say them to?

A. I don't know who he said them to, and I don't know what the words were.

Q. Howard got a little excited, didn't he?

A. Yes, he did. He got a little excited.

Q. He raised his voice, did he?

(Testimony of L. A. Spear.)

Mr. Mouritsen: This is objected to, Mr. Examiner, as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: All right.

Q. To your knowledge, how long was Mr. Howard in and around Corcoran at this time, that is, around January 17th?

Mr. Mouritsen: This is objected to as incompetent, irrelevant and immaterial, and at least it is in the nature of an attempt to effect a compromise of a situation that has later resulted in a lawsuit, or a hearing of this kind. As such I think it is purely beyond the scope of inquiry into which we should go at this time.

Mr. Clark: I don't understand the compromise rule as to [978] the admissibility of evidence would have any application to a proceeding such as this, which is not of a character of a civil lawsuit at all, Mr. Examiner, as I understand it. It is a violation of a Federal Statute.

Trial Examiner Lindsay: Sustained. You may proceed.

Q. (By Mr. Clark) Were you present at any conversations after January 17th with employees of the Boswell Company at which Mr. Howard was present, and at which he attempted to get them to join your Union?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial. [979]

(Testimony of L. A. Spear.)

Mr. Clark: Submitted.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Now, Mr. Spear, I want you to go back just a moment to the morning of November 18, 1938.

Will you please tell us whether Mr. Gordon Hammond was present in the office to which you all went that morning after these three men had laid off you?

A. I didn't see him. He wasn't in his office.

Q. I see.

As I understand, you all went over to Gordon Hammond's office? A. Yes.

Q. Did Mr. Gordon Hammond ever appear in the office to your knowledge? A. No.

Mr. Mouritsen: May we have the time?

Mr. Clark: The morning of November 18th.

The Witness: No.

Q. (By Mr. Clark) Did he ever appear there as long as you were there that morning?

A. No.

Q. All right. And up until the time that you heard Mr. Louie Robinson's voice, did Mr. Louie Robinson come into the office? [980]

A. No.

Q. All right. What did all of you do in the office up until the time you heard Mr. Robinson's voice out in the corridor?

A. We just sat there and waited.

Q. Why was that, please?

A. We had the guards at the door.

(Testimony of L. A. Spear.)

Q. What do you mean, "the guards"?

A. The birds that brought us over.

Q. Do you mean to tell us, Mr. Spear, that you were forcibly kept in the room by other employees of the company?

A. I considered at that time that I was forcibly kept in there a prisoner. That is the way—I didn't try to get out. I didn't want to try.

Q. All right.

And there were other employees, then, that were blocking up the doors, is that right? A. Yes.

Q. And it was upon Mr. Robinson's telling them and also all of the union men to go back to work that you were released, is that right?

A. That is it.

Q. All right.

On your direct examination you told us that when you returned to your gin you stalled for time because you were waiting for someone. Do you remember that testimony? [981] A. I did.

Q. Will you please state who you were waiting for?

A. I was waiting for Mr. Robinson to show up.

Q. And by Mr. Robinson, you mean Mr. Louie Robinson, don't you?

A. Mr. Louie Robinson.

Mr. Clark: No further questions.

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Spear, upon your cross examination I believe you stated that you were

(Testimony of L. A. Spear.)

manhandled on the morning of November 18, 1938.

Do you recall that? A. I do.

Q. Now, because of that manhandling you received did you ever see a physician?

A. I went to see a doctor later.

Q. And when did you do that?

A. That was on Saturday.

Q. Well now, with reference to the day upon which you were manhandled, when did you go to see the doctor? You understand that?

A. Well, after the 18th, the following Saturday.

Q. Well now, was—do you recall whether or not November 18, 1938, was a—well, do you recall what day of the week it was? A. Friday. [982]

Q. And was this the next day that you went to see a physician? A. Yes.

Q. Did he examine you at that time?

A. Yes.

Q. Did he make any statement to you about your physical condition? A. He—

Q. (Interrupting) Just answer that yes or no.

A. Yes, he did.

Q. Now, will you state what he said?

Mr. Clark: Will you please identify him, first?

Q. (By Mr. Mouritsen) Who was the doctor?

A. I don't remember his name; the first office on the left downtown.

Q. Well, where? In Corcoran?

A. On the main street, yes.

Q. And is there any street name, any street that

(Testimony of L. A. Spear.)

you can tell us—can you tell us what street in Corcoran his office is on?

A. The main street. I believe it is Whitley.

Q. And is it near any cross street?

A. Well, it is adjoining the Richfield service station, which adjoins the cross street. It is the second door from Norboe Avenue. [983]

And did you talk to him in his office there?

A. Yes, I did.

Q. Was anyone else present other than you and the physician or the doctor?

A. My wife was with me.

Q. Was she present when he made the statement to you about your physical condition?

A. Yes.

Q. Will you state what he said to you at that time regarding your physical condition?

Mr. Clark: Objected to as hearsay; not binding on any of the respondents in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: I don't know as he made any statement directly to me. I think he stated to my wife that I was suffering from shock.

Q. (By Mr. Mouritsen): Is that—

Mr. Clark (Interrupting): I move that that go out, may it please your Honor. It is not in the hearing of this witness.

The Witness: I was there.

Q. (By Mr. Mouritsen) Did you hear him say that to your wife?

(Testimony of L. A. Spear.)

A. I believe I did and I told him that I thought maybe it was my heart. I went down there because I was feeling awfully [984] weak and I thought maybe my heart was on the bum. That is the reason I went down there. I was afraid of my heart. It never give me no trouble before, because I had him examine me for a mountain trip, mountain climbing trip in the summer, and my heart was all right. I reminded him of that and told him though that was what I wanted to be examined for, to see if my heart was all right. I thought it might be something pertaining to my heart because I was awfully weak.

Mr. Mouritsen: Nothing further.

Mr. Clark: Very well.

Recross Examination

Q. (By Mr. Clark): When was it you made your appointment with the doctor for this examination?

A. My wife and I went down there. We didn't make any appointment.

Q. I see.

A. Went directly in there. I think it was the afternoon.

Q. When did you decide to go and see a doctor?

A. I decided—my wife kept trying to get me to see a doctor all that morning, after I come back from the conference.

Q. After you what?

A. After I came back from the conference down there, my wife wanted me to go see the doctor.

(Testimony of L. A. Spear.)

Q. That is the morning of the 19th, is that right?

A. Yes. That was on Saturday morning; Saturday. [985]

Q. Had you been feeling badly prior to the 18th?

A. No, feeling all right.

Q. Had you not discussed going to see a doctor with your wife prior to the 18th? A. No.

Q. Felt perfectly all right before that?

A. I did.

Q. You have used the word "manhandled," Mr. Spear, and counsel used that in his questions on re-direct examination put to you just now. Tell us what you mean by that?

A. Well, I don't know that I can hardly tell you except I was treated a little rough.

Q. Well, you have told us that no one struck you, isn't that right?

A. That is a fact. They did not strike me.

Q. And am I not correct in stating that two men simply took you by the arm and started to lead you over to the superintendent's office?

A. I guess "lead" would be the word. I would call it "propelled." Wouldn't make much difference, I guess, either way.

Q. And you told us that you resisted that?

A. I did. I tried to keep from being taken along.

Q. Was that the extent of what happened to you, physically?

A. Except that a man pushed behind; that is all.

(Testimony of L. A. Spear.)

I couldn't [986] keep from going. I went right along.

Q. I understand that.

A. I struggled as long as I could and my strength gave out. Then I quit struggling.

Q. Did the doctor tell you it was physical exertion that caused the weak condition or shock or a mental condition? A. He didn't say.

Mr. Mouritsen: I object to that as already asked and answered.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Well, we have gone over it. He may answer.

The Witness: As well as I remember, all he said, he thought maybe I was suffering a little shock.

Q. (By Mr. Clark) For how long after the 18th did you continue to feel weak?

A. Well, I laid around home for about four days; felt awfully tough for about a week, and then I got all right.

Q. Haven't noticed any recurrence of that?

A. No.

Q. How old a man are you, Mr. Spear?

A. I am about 50 years old.

Q. About 50?

A. Close; 49.

Q. I see.

A. 50. [987]

Q. Now, I would like to ask you—withdraw that. If I may, Mr. Examiner, I would like to ask one

(Testimony of L. A. Spear.)

or two more questions which are not properly re-cross examination, but it will take me only a few seconds.

Trial Examiner Lindsay: You may ask the questions.

Q. (By Mr. Clark) Mr. Spear, again directing your attention to the time you were in the superintendent's office on the morning of November 18th, before you heard Mr. Robinson's voice out in the corridor, I want to ask you whether Bill Robinson was in that room with you?

A. If he was in there, I don't know it. He could have been.

Q. Was Tommy Hammond in there with you?

A. I don't think Tommy was in there.

Q. Was Joe——

A. (Interrupting) He could have been in there.

Q. I see.

Was Joe Hammond in there with you?

A. I didn't see him. I don't recall seeing him. I don't think so. I don't think any of them was in there.

Q. Were any of these three men in the crowd which took you over to the superintendent's office?

A. I don't know. I don't recall seeing either one of these men there in that crowd.

Q. I see.

Now, directing your attention to the time when you had [988] returned to your gin, immediately after being in the superintendent's office, that is,

(Testimony of L. A. Spear.)

after Mr. Robinson told you all to go back to work, and while you were there waiting for Mr. Louie Robinson to come along, did Bill Robinson appear?

A. Yes, he did. He appeared in the gin.

Q. And you talked to him, didn't you?

A. No; didn't say a word to Bill.

Q. Well, didn't you hear him say something?

A. Yes, I did.

Q. I see.

Now, did Tommy Hammond appear at that time?

A. I didn't see Tommy right at that time.

Q. And did you see Joe Hammond at that time?

A. Yes, I did.

Q. Now, that was still while you were waiting for Mr. Louie Robinson, isn't that right?

A. Yes.

Mr. Clark: That is all.

Mr. Mouritsen: No further questions.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Mouritsen: Call Mr. Wingo.

H. N. WINGO,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testi- [989] fied as follows:

Direct Examination

Q. (By Mr. Mouritsen): State your name?

A. H. N. Wingo.

Q. And where do you live?

A. 1137 Narboe Avenue, Corcoran, California.

Trial Examiner Lindsay: Can you talk a little louder, please?

Q. (By Mr. Mouritsen): Have you ever been employed by the J. G. Boswell Company?

A. I have.

Q. When were you first employed by the Boswell Company? A. November of '37.

Q. What type of work did you first do for that Company?

A. Feeding suction at the gin.

Q. What was your rate of pay per hour?

A. 35 cents.

Q. What hours did you work?

A. 12, I believe.

Mr. Clark: Mr. Examiner, I can hardly hear this witness with these fans going, in view of his talking in such a low manner.

Trial Examiner Lindsay: Talk louder, will you please? Talk as if you were out in the plant.

Q. (By Mr. Mouritsen) And how long did you continue to [990] work—I believe you said as a suction feeder, is that correct?

(Testimony of H. N. Wingo.)

A. Two weeks.

Q. And did your work then change?

A. It did.

Q. And what did you next do?

A. I was a press helper.

Q. Any change in rate of pay or hours of work?

A. No.

Mr. Clark: What was the rate that you brought out? I didn't hear that.

Trial Examiner Lindsay: Thirty-five cents an hour.

Mr. Clark: Thirty-five?

Trial Examiner Lindsay: That is right.

Is that right, Mr. Witness?

The Witness: That is right.

Q. (By Mr. Mouritsen) And how long did you continue to—I will strike that.

Will you tell me again what type of work you next started to do, Mr. Wingo?

A. I was started tying out cotton.

Q. And how long did you continue to do that type of work?

A. Some six or eight weeks, I think; six weeks, probably.

Q. And what type of work did you next do for the Company?

A. I helped turn some hot seed in the warehouse that was piled up. [991]

Q. And how long did you continue to do that type of work?

(Testimony of H. N. Wingo.)

A. One or two nights.

Q. And what type of work did you next do for the Company?

A. I helped haul some of these hot seeds around to the oil mill.

Q. How long did you continue to do that type of work?

A. Three or four nights.

Q. Then what did you do?

A. They put me to work in the seed house.

Q. How long did you work in the seed house?

A. Well, for some time, I would say around the middle of January until the mill shut down in March, I believe.

Q. And the year?

A. 1938.

Q. Did you, during that period, receive any increase in pay?

A. Yes. When I started tying out cotton, they raised me to 40 cents an hour.

Q. And after that time did you receive 40 cents an hour until March of 1938?

A. I did.

Q. Now, after March of 1938, when did you next work for the Company?

A. Well, I was only off a few days.

Q. Then what type of work did you start to do?

A. I helped set some pumps or worked around where they were setting pumps. [992]

Q. And was that work for the J. G. Boswell Company?

A. I think so.

Q. But it wasn't at the plant, is that correct?

A. It was out on the levee.

(Testimony of H. N. Wingo.)

Q. And how long did you continue to do that type of work?

A. Oh, it wasn't but one day, possibly two days; I don't recall.

Q. And did your type of work change then?

A. Yes.

Q. What type of work did you next do?

A. I worked around the plant here in Corcoran, hoeing weeds, cleaning up around.

Mr. Clark: Will you please identify that time? May I have it identified?

Trial Examiner Lindsay: Yes. It has been done, but you may have it again.

The Witness: This was in April of 1938.

Mr. Mouritsen: All right.

Q. Now, what work did you next do after you did this cleaning up work around the plant?

A. I was laid off down there, and I got a job as pumper out on 749 District.

Q. And was that also for the Boswell Company?

A. Well, I didn't get my check through the Boswell office.

Q. When next did you go back to work for the Boswell—[993]

Mr. Clark (Interrupting): Just a minute. I am going to ask that that go out as not responsive, and that we have that answer to the question, yes or no. Was that for the Boswell Company?

Trial Examiner Lindsay: He may explain his answer.

(Testimony of H. N. Wingo.)

The Witness: Well, I understood on this first time when I was running a gasoline engine I was paid by the Tulare Lake Land Company, I believe it is.

Q. (By Mr. Mouritsen) Well, is that when you say that you—was that the first occasion when you did not receive your check from the J. G. Boswell Company? A. Right.

Q. What is the approximate date, or what is the approximate period when you received your check, from the Tulare Land Company?

Q. You mean how long?

Q. Yes.

Mr. Clark: And when.

The Witness: From some time in April until the 9th of June, I believe, 1938. [994]

Q. (By Mr. Mouritsen) After the 9th of June, 1938, did you ever go to work for the Boswell Company? A. I did.

Q. And on what—on or about what date?

A. The first night of July, 1938.

Q. And what type of work did you start to do then?

A. I worked in the seed house at the oil mill.

Q. And what was your rate of pay at that time?

A. 40 cents.

Q. How long did you continue to work in the seed house?

A. I believe until some time in the latter part of September of 1938.

(Testimony of H. N. Wingo.)

Q. Now, while you worked in the seed house, did anyone—was there anyone there who directed your work or gave you orders regarding your work?

A. Yes.

Q. Who was that person?

A. Well, part of the time it was Julius Hammond. The rest of the time it was Joe Hammond.

Q. Now, when Joe Hammond gave you orders or directed your work, did you carry those orders out? A. As near as I could.

Q. I believe you stated that you worked in the seed house until the latter part of September, 1938, is that correct? A. Yes, sir. [995]

Q. What type of work, if any, did you next do for the company?

A. I went back to work in the gin as a pressman.

Q. And about when did you start as a pressman in the gin?

A. Some time in the 1st of October. I couldn't fix the date.

Q. And when you went to work in the gin, did you have anyone there who gave you orders or directions regarding your work? A. Yes.

Q. Will you state who gave you orders or directions regarding your work in the gin?

A. Tommy Hammond gave me most of them, and Bill Robinson gave me some of them.

Q. Now, between the time in September when you worked, as I believe you stated, in the seed

(Testimony of H. N. Wingo.)

house and some time in the fore part of October when you went to work in the gin, were you laid off? A. Yes.

Q. Now, how were you informed of your lay-off?

A. Joe Hammond laid me off.

Q. Now, after the fore part of October, 1938, how long did you continue to work for the J. G. Boswell Company?

A. Until the 18th of November, I believe.

Q. What year? [996] A. 1938.

Q. During the period while you were employed by the J. G. Boswell Company did you become a member of any labor organization? A. I did.

Q. Of what labor organization?

A. American Federation of Labor.

Q. Do you recall the approximate date when you made application to the American Federation of Labor?

A. I believe it was the second day of September, 1938.

Q. During the month of August, 1938, did you ever have a conversation with Joe Hammond regarding a union?

A. A short conversation.

Q. Can you fix the date more approximately than the month of August. Was it in the fore part or the last part of August 1938?

A. I couldn't say; I didn't pay any attention to the dates.

(Testimony of H. N. Wingo.)

Q. Do you recall where the conversation took place?

A. Between the seed house and the oil mill.

Q. Other than yourself and Joe Hammond, was anyone else present? A. No.

Q. At the time when you had the conversation with Joe Hammond was he giving you orders and directing your work? A. He was. [997]

Q. Will you state what Joe Hammond said to you on that occasion and what you said to Joe Hammond?

Mr. Clark: Objected to as hearsay and not binding on any of these respondents and not the type of evidence upon which a finding can be based in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: Well, it was one day when Gilmore came down. He was on the premises. I noticed him, but I didn't talk to him; and Joe passed by and tapped me on the shoulder and asked me if Gilmore had me signed up yet in the union.

Q. (By Mr. Mouritsen) Did you say anything to Hammond then?

A. I told him he hadn't.

Q. Was there any further conversation that took place at that time?

A. There was none.

Q. Shortly after that time on the same date did you have a further conversation with Joe?

A. Some time in August.

(Testimony of H. N. Wingo.)

Q. Yes. Was it on the same day or on another day? A. I don't think it was the same day?

Q. Where did you have this other conversation with Joe Hammond?

A. It was over near the new seed house.

Q. Was anyone else present other than yourself and Mr. [998] Hammond? A. No.

Q. Will you state what Mr. Hammond said to you on that occasion and what you said to Mr. Joe Hammond?

Mr. Clark: Objected to on the same grounds, your Honor, namely, hearsay, and not binding on any of the respondents.

Trial Examiner Lindsay: He may answer.

The Witness: He came by and asked him how the union was getting along, and he said he didn't know, that it looked like if the men there wanted a union, they would quit and go somewhere where there was a union instead of trying to bring one there.

Q. (By Mr. Mouritsen) Do you remember any further conversation that took place there at that time? A. No.

Q. Did you ever attend any meeting of the union at which the subject of wearing union pins at the plant was discussed? A. Yes.

Q. And can you fix the approximate date of that meeting?

A. I believe it was around the 16th of November of 1938.

(Testimony of H. N. Wingo.)

Q. Do you recall where the meeting was held?

A. At O. L. Farr's residence.

Q. Were any other employees of J. G. Boswell Company present at that meeting? [999]

A. Yes.

Q. Can you name as many as you can recall who were present at that time?

A. Well, R. K. Martin, O. L. Farr—I believe that is about all I could name definitely.

Q. Now, will you state what was said at that meeting regarding the wearing of the union buttons at the time?

Mr. Clark: Objected to on the ground it is hearsay and in no way binding on any of the respondents, self-serving, and also incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: May I have that question again?

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: It is purely self-serving, your Honor, as well as hearsay.

Trial Examiner Lindsay: Will you kindly read the third question above that, I believe it is?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: What was the question?

(Testimony of H. N. Wingo.)

(The question referred to was read by the reporter, as set forth above.)

The Witness: Well, as best I recall, we agreed to wear [1000] buttons.

Mr. Mouritsen: No.

Q. Can you state what was said as near as you can recall about wearing buttons at the plant?

A. No, I can't.

Q. Well, can you give us the substance of what was said about wearing union buttons at the plant?

A. I believe not.

Q. Can you state whether or not it was decided at the union meeting to wear union buttons at the plant? A. Yes.

Q. Will you state whether or not it was decided at that meeting to wear your union buttons at the plant?

Mr. Clark: I object on the ground it has been asked and answered.

Trial Examiner Lindsay: Yes. Sustained.

Q. (By Mr. Mouritsen) And after that meeting on or about November 16, 1938, did the union members wear their union buttons at the plant?

A. Yes.

Q. When did they first wear their union buttons at the plant?

A. On Friday, November 18th, I believe.

Q. And the year? A. 1938. [1001]

Q. Did you go to work on the morning of November 18, 1938? A. Yes, sir.

(Testimony of H. N. Wingo.)

Q. At about what time?

A. About 6:00 o'clock.

Q. During the course of November 18, 1938, did you attend a meeting of people in the yard of the Boswell plant?

A. I did.

Q. At what time, approximately, did you attend such a meeting?

A. About 10:00 o'clock in the morning.

Q. Now, will you describe the work that you were doing just prior to the time you attended the union meeting—strike that—attended the meeting in the yard of the Boswell Company plant?

A. I was tying out a bale of cotton.

Q. And after you completed that work, what did you do?

A. I went down to where the crowd was gathered just outside the building.

Q. Will you state whether or not that was on the premises of the Boswell plant that the crowd gathered?

A. Yes.

Q. Now, I will ask you if prior to that date you had ever worked for—done any work for Rube Lloyd?

A. Well, I had worked in his gang.

Q. When was that? [1002]

A. Either the last of March or the 1st of April in 1938.

Q. And what type of work were you doing when you worked in his gang?

Mr. Clark: I object to that as incompetent, ir-

(Testimony of H. N. Wingo.)

relevant and immaterial; unless Mr. Lloyd is identified in some way.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Mouritsen) On the morning of—to return to the morning of November 18, 1938, did you see Mr. Lloyd in that crowd of people in the yard?

A. Yes.

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial, may it please your Honor, on the same ground.

Trial Examiner Lindsay: He may answer.

The Witness: Yes. [1003]

Q. (By Mr. Mouritsen) Who was Mr. Rube Lloyd?

A. Well, he is an employee of the J. G. Boswell Company.

Q. Now, I believe you stated that prior to November 18th, 1938, you had worked in his gang, is that correct? A. Yes.

Q. What does his gang do at the plant?

A. Well, they repair, set pumps, build buildings.

Q. And when you worked in his gang, did you or did you not take orders or directions regarding your work from Mr. Rube Lloyd? A. I did.

Q. Did you observe his giving orders and directions regarding the work to other men?

A. Yes.

Q. Did you observe whether those other men carried out the orders and directions regarding the work that you heard Mr. Rube Lloyd give to them?

A. They did.

(Testimony of H. N. Wingo.)

Q. Now, during that—or, while that crowd was gathered on the morning of November 18th, 1938, did you hear Mr. Rube Lloyd say anything?

A. Yes.

Q. Will you state what you heard Mr. Rube Lloyd say?

Mr. Clark: Objected to as hearsay, and not binding on any of the Respondents in this proceeding, no authority having [1004] been shown from the Respondent, Boswell Company, to have Mr. Lloyd speak for it in connection with any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: He says, "Throw them out. Let's throw them out."

Q. (By Mr. Mouritsen) Do you know a Mr. Brown who worked at the plant? A. I do.

Q. What does he do at the plant?

A. He was the day engineer, I thought, then.

Q. Did you hear Mr. Brown say anything during the course—or while that gathering was assembled in the yard on November 18th, 1938?

A. I did.

Q. Will you state what you heard Mr. Brown say?

Mr. Clark: Objected to on the ground it is hearsay and not binding on any of the Respondents to this proceeding, there having been no authority shown from the Respondent Boswell Company to Mr. Brown to speak for it in connection with any

(Testimony of H. N. Wingo.)

of the matters under investigation in this proceeding.

Trial Examiner Lindsay: Sustained until there is more information as to who Mr. Brown is.

Q. (By Mr. Mouritsen) I believe you stated, Mr. Wingo, that Mr. Brown is the day engineer of the plant; is that correct? [1005] A. Yes.

Q. Was he the day engineer while you were employed at the plant? A. Yes.

Q. Now, I will ask you what you heard Mr. Brown say on that occasion?

Mr. Clark: The same objection, Mr. Examiner.

Trial Examiner Lindsay: What does the day engineer do?

The Witness: He wipes engines, and attends to the engines in general, I think—the power plant, it is, of the J. G. Boswell Company.

Mr. Clark: I can't hear the witness's statement.

Trial Examiner Lindsay: Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: Mr. Examiner, may I be heard upon that ruling?

Trial Examiner Lindsay: Well, I haven't ruled on the last objection yet. If you think it is necessary, you may.

Mr. Mouritsen: Well, Mr. Examiner, it is the position of the Board in this regard that a sufficient foundation has been laid in as much as these statements were made and the acts were done upon Company time and property, and, therefore, that such

(Testimony of H. N. Wingo.)

statements are permissible and are admissible even though it is not shown that this particular man Brown was— [1006] acted in any supervisory capacity.

Mr. Clark: Submit it, your Honor.

Trial Examiner Lindsay: He may answer.

The Witness: He says, "Let's throw them out. The Company is behind us."

Q. (By Mr. Mouritsen) Now, were you present during the entire course of that gathering until it disbursed? A. Yes.

Q. What did you observe when the crowd disbursed? A. I didn't get that.

Q. Do you understand that?

What did you observe when the crowd broke up?

A. Well, I undertood they was going to take Lonnie over to the office.

Q. Well, did you observe them, a number of the employees, start out with Mr. Spear in the general direction of the office? A. Yes.

Q. What did you, yourself, do at that time?

A. I got my lunch kit and started home. I went out and sat down on the running board of my car to see what they were going to do.

Q. And after that time, did you return to the gin house? A. Yes.

Q. What did you do after you returned to the gin house?

A. I started my two motors and got ready for work. [1007]

Q. Then what next occurred after you started your two motors and got ready for work?

(Testimony of H. N. Wingo.)

A. Kelly Hammond came along and shut them off.

Q. Who is Kelly Hammond?

A. He is an employee at the Boswell plant.

Q. What next occurred after Mr. Kelly Hammond shut off the motors? A. I went home.

Q. Now, after you returned to the gin house and before you went home, did Mr. Louis T. Robinson come out to the gin house?

A. I didn't see him.

Q. At the time when Mr. Kelly Hammond shut off your—the motors in the gin house, did he make any statement to you? A. Not to me.

Q. Well, did he make any statement that you heard?

A. I wouldn't be positive that he did.

Q. While you were working for the Boswell Company, did you ever receive any complaints regarding your work? A. No.

Q. Where were you last working—what job before November 18th, 1938?

A. Before November 18th?

Q. Before November 18th, 1938?

A. I was pressman on the Number 2 gin. [1008]

Q. Do you know whether or not that gin was operated after November 18, 1938?

A. No, I don't know.

Q. Do you know who, if anyone, replaced you on that gin after November 18, 1938?

A. No, I don't know.

Q. Have you had any work since November 18, 1938? A. I worked a little.

(Testimony of H. N. Wingo.)

Q. Do you know approximately how much money you have earned since November 18, 1938?

A. About \$25.

Q. If the National Labor Relations Board should order your reinstatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. I would.

Mr. Mouritsen: You may examine.

Cross Examination

Q. (By Mr. Clark): What was your rate of pay that you were getting on November 18, 1938, Mr. Wingo, when you left? A. 40 cents an hour.

Mr. Clark: Does your Honor intend to take an afternoon recess?

Trial Examiner Lindsay: Yes. You may have it now. A ten-minute recess.

(At this point a short recess was taken, after which [1009] proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Q. (By Mr. Clark) Now, Mr. Wingo, I will show you the page headed with your name in Board's Exhibit No. 3 which is your social security record with the Boswell Company and I want particularly to direct your attention to the figures or rather the entry 3/24, meaning March 24, 1938, opposite which appears the figures \$16.00 and then to the further entry 7/7/1938, meaning July 7, 1938, opposite which appears the figures \$32.60, and ask you if, looking at those two days upon which money was apparently

(Testimony of H. N. Wingo.)

paid you refreshes your recollection as to the length of time in 1938 that you were not employed by the Boswell Company is concerned? A. Yes.

Q. Well, all right.

Am I correct in stating then that you were laid off by the Boswell Company on or about approximately March 24, 1938, as of which date you received a payment of \$16 for that week?

A. I was laid off about that time.

Q. About that time. Exactly. I don't expect you to remember the exact dates, don't you see, but that does correspond with your recollection, does it?

A. Yes.

Q. All right. Then am I correct likewise in stating that [1010] you were next employed by the Boswell Company about July 1, 1938, at the end of which week you received your regular payment, under date of July 7th?

A. Didn't I make the statement that I worked a little after the mill closed down?

Q. Well, I am not—I don't remember what statement you made in that regard on direct examination, but if you did, if you have any further explanation to make, we will get to it. I wish you would just answer my questions as best you can, after you get them in mind, and then make any explanation you want to make.

A. Maybe I didn't understand that question.

Q. Very well. Let me withdraw it and reframe it.

Am I correct then in stating, Mr. Wingo, that you

(Testimony of H. N. Wingo.)

resumed your employment with the Boswell Company after your lay-off in the spring of 1938, about July 1 of that year?

A. No. I worked some immediately after the mill shut down, some two or three days after it shut down. I went back to work and worked a few days.

Q. Well, aren't you thinking of the time you were first laid off which the record here shows was on March 24th, that you went back and worked a few days?

A. Yes, I went back and worked a few days after the mill shut down.

Q. All right. The mill shut down in the latter part of [1011] March 1938, didn't it?

A. I think so.

Q. Isn't the few days that you worked after the mill shut down included in this \$16 payment which you received on March 24th? Don't you think that?

A. I don't know.

Q. Well, you have told us you were getting paid 40 cents an hour, weren't you, at that time?

A. Yes.

Q. All right.

Now, leaving that matter for a moment, that is the few days that you may have worked after the mill shut down, the thing I want from you is the best recollection on when you again were employed by the Boswell Company later in the year, you see?

A. Well, I don't think I was off over two or three days until I was employed for a short time, and then laid off again.

(Testimony of H. N. Wingo.)

Q. All right. Now how long—in what capacity were you employed on this resumption of employment, we will call it, after you were first laid off.

A. I helped set pumps and hoed weeds around the warehouse.

Q. For how long did you do that?

A. Just a few days; not long.

Q. That you think was either the latter part of March or [1012] the early part of April of 1938?

A. Yes.

Q. And then were you laid off for quite a considerable period?

A. Until the first night of July.

Q. All right. Now when you went back to work for Boswell commencing July 1st did you receive 40 cents an hour? A. Yes, sir.

Q. As your rate of pay? A. I did.

Q. And am I correct in stating, Mr. Wingo, that continuously through the entire fall of 1938 up to November 18th you were paid 40 cents an hour?

A. For all the work I did, yes.

Q. Yes.

Did I say 40 cents a day? Did I say 40 cents a day in some question?

Trial Examiner Lindsay: We understood it was 40 cents an hour.

Mr. Clark: I wish it would be changed if I said that.

May I have that last question?

Trial Examiner Lindsay: Read the last question.

(Testimony of H. N. Wingo.)

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: All right. [1013]

Q. And as I understand it, you worked at various jobs and different jobs from time to time?

A. Yes.

Q. When was the first time as near as you can remember it now when you talked to Mr. Gordon Hammond or Mr. Robinson, Louie Robinson, concerning your having joined the union?

A. I never did talk to one of them about it.

Q. You never did talk to either of those gentlemen, is that right? A. No.

Q. You referred to certain conversations with Mr. Joe Hammond during August of 1938 on your direct examination. Do you remember those?

A. Yes.

Q. Did you ever tell Mr. Joe Hammond that you had joined the union? A. No.

Q. Were you laid off for a short period of time in October of 1938?

A. I believe I was.

Q. In other words, am I not correct in stating that the mill closed down along in latter September or early October? And then started in again around the 25th of October?

A. I don't know when it started again, but I know when it shut down, about the 28th of September. [1014]

(Testimony of H. N. Wingo.)

Q. And then was there a matter of a few weeks before it started up again?

A. I wouldn't be positive when it started again. I was transferred to the gin, the next job I had.

Q. I see.

Were you laid off when the mill was shut down on the 28th of September? A. Yes.

Q. And then was there a period of a few days, at least, during which you were laid off?

A. Yes.

Q. Before you were put in the gins?

A. Yes.

Q. Did Mr. Prior—withdraw that.

Had you joined the Union by that time?

Mr. Mouritsen: Objected to as indefinite.

Mr. Clark: Withdraw that.

Q. When did you join the Union, if you remember?

A. About the 2nd day of September, 1938.

Q. Yes.

Now, did Mr. Prior ever tell you of any conversation which he had with Mr. Gordon Hammond about October 8th, 1938? A. No.

Q. Just a minute, please.

In which he asked Mr. Hammond to re-employ you? [1015] A. No.

Q. Do—did you ever know anything at all, Mr. Wingo—withdraw that.

Were you ever told by—withdraw that.

With whom did you talk about being re-hired?

(Testimony of H. N. Wingo.)

A. Mr. Gordon Hammond.

Q. In October of 1938?

A. Mr. Gordon Hammond.

Q. And where was that conversation, if you please?

A. It was on the J. G. Boswell property. I couldn't place the spot exactly.

Q. And when was it, as nearly as you can fix it?

A. In the early part of October, I will say.

Q. Of 1938? A. Right.

Q. Anyone else present? A. No.

Q. Now, did you get in touch with Mr. Hammond, or did he get in touch with you?

A. I got in touch with him.

Q. You went to see him at his office or at the plant? A. At the plant.

Q. Did you then ask him for a job?

A. Yes.

Q. And the result of that was that you did get a job? [1016] A. Yes.

Q. As pressman in Number 2 gin; is that right?

A. That is right.

Q. Now, at that time was there any discussion between you and Mr. Gordon Hammond about the Union? A. No.

Q. Did he ask you whether you had joined the Union? A. No.

Q. Did he tell you anything about a conversation which he had had a few days previously, that is, on October 8th, with Mr. Prior, about re-employing you? A. No.

(Testimony of H. N. Wingo.)

Q. And do I understand that you never, at any time, until you probably heard it here in this court room, had known about such a conversation taking place?

A. I happened to be working at the plant when Mr. Prior came down, I think.

Q. You mean on the 8th of October?

A. I think I was already at work.

Q. You think you were? A. Yes.

Q. Well, did you—do you remember the occasion of his coming down to the plant and talking to Mr. Gordon Hammond at that time?

A. I heard some talk of it. [1017]

Q. Well, that is exactly what I was after.

Where did you hear about Mr. Prior having come to the plant to discuss with Mr. Gordon Hammond the matter of re-employing some of the Union members?

A. I believe George Andrade told me about it after he came back to work.

Q. Was that after the conversation had taken place?

A. I suppose so. It was after he had come back to work.

Q. I see.

Did you learn at that time that you were among the men discussed by Mr. Gordon Hammond with Mr. Prior? A. No.

Q. What did Andrade tell you about it?

A. Well, as best I remember, he said that Mr.

(Testimony of H. N. Wingo.)

Prior talked to Mr. Hammond and he agreed to put him back to work.

Q. To put him, Andrade, back? A. Yes.

Q. You never knew that that conversation concerned you at all, then? A. No.

Q. I see.

Now, from September 2nd on up to November 18th of 1938, there were Union meetings from time to time, weren't there, Mr. Wingo?

A. I think so. [1018]

Q. I mean, didn't you attend them?

A. I attended one that I know of.

Q. And when was that with respect to November 18th? A. About November the 16th.

Q. Well, is that the only meeting that you attended?

A. Well, it is the only one that I remember. I was sick for a little while there and didn't go out.

Q. Well, you have told us that you joined the Union on September 2nd. By that, you mean that you simply signed your application on that day?

A. Yes.

Q. And do I then understand that the first meeting you attended was the one on November 16th?

A. I don't remember whether it was or not.

Q. Well, do you remember a meeting at which you received a button or were initiated into the Union?

A. I was initiated. I didn't receive any button, I don't believe, that night.

(Testimony of H. N. Wingo.)

Q. Well, do you remember the night when you were initiated? About when that was?

A. I do not remember the date.

Q. Well, can you fix it for us with respect to September 2nd? A. No, I couldn't. [1019]

Q. Was it a week after or was it September 2nd?

A. No, it wasn't September 2nd.

Q. What is your best recollection as to how long after September 2nd it was?

A. I couldn't state. I don't remember.

Q. Do you think it was this meeting of November 16th?

A. Well, I wouldn't be positive.

Q. I see.

When did you receive your button?

A. I don't remember. Mr. Martin gave me one.

Q. Was that at a meeting?

A. I don't think so.

Q. Well now, at whatever meeting you did attend, Mr. Wingo, did you see other employees of the Boswell Company present? A. Yes.

Q. Do you remember about how many?

A. No.

Q. Did you talk to other employees of the Boswell Company from time to time after September 2nd and before November 18th concerning the fact that you had joined the union?

A. You mean outside of the union? Other than union men?

Q. Well, first let us take union men.

(Testimony of H. N. Wingo.)

A. I have talked to some. [1020]

Q. Yes. Now, how about talks with persons who were not members of the union?

A. I didn't consult anyone that wasn't a member of the union.

Q. I see. Now, after the events of November 18th which have been described during this hearing, I understand that you got your lunch pail and started home, is that right? A. That is right.

Q. Did you ever go back to the Boswell plant?

A. Yes.

Q. When, please? A. The following day.

Q. That was the 19th? A. Yes.

Q. And what was your purpose in returning to the plant? A. To get my check.

Q. And did you get it? A. Yes.

Q. And now that was the check for the week ending November 17th, wasn't it?

A. I think so.

Q. In other words, that didn't include your pay for whatever time you had put in on the 18th, isn't that right? A. No, it didn't.

Q. And then did you return to the Boswell plant at even a [1021] later date to pick up another check?

A. I did.

Q. And when was that?

A. One week later.

Q. And did you receive a check at that time?

A. I did.

Q. And was that for a full week's pay?

(Testimony of H. N. Wingo.)

Mr. Mouritsen: Objected to——

The Witness (Interrupting) No.

Q. (By Mr. Clark) How much was it for, if you remember, approximately?

A. I can show you.

Q. I wish you would tell us then.

A. The week ending November 24th?

Q. Yes, sir. A. \$23.20.

Q. All right. Now, have you got the check for the week ending the 17th, that is, the stub of it with you up there? A. No.

Q. Now, did you receive any checks in addition to the ones for the week ending the 24th? In other words, did you receive a check for the week ending December 1st? A. I did.

Q. And what is the amount of that?

A. \$8.40. [1022]

Q. And did you receive a check for the week ending December 8th? A. No.

Q. Well, aren't you mistaken about that, Mr. Wingo. Will you please look at those stubs you have and answer my question with respect to a check for the week ending December 1st? Have you got that stub? A. December 1st?

Q. Yes.

A. Yes, sir; I got one then.

Q. All right. And how much was that one for?

A. \$20.

Q. Yes, \$20. A. Yes.

Q. And then you got another one for the week ending December 8th, didn't you? A. Yes.

(Testimony of H. N. Wingo.)

Q. And that was the one for \$8.40, is that not right?

A. Yes. That is right. I was mistaken.

Q. So that after the 18th of November, if I understand you correctly, you returned to the plant on four different occasions and received checks, the first of which occasions was on the following day, the 19th? A. Yes.

Q. At which time you received a check for the week ending [1023] the 17th? A. Yes.

Q. The next was the following week when you received a check for the week ending November 24th? A. That is right.

Q. The next was the following week when you received a check for the week ending December 1st?

A. That is right.

Q. And then the following week when you received a check for the week ending December 8th?

A. That is right.

Q. Is that right? A. Yes.

Q. Now, you of course didn't do any work for the money you received for the weeks ending December 1st and December 8th, did you? A. No.

Q. And the only work you did for the check you received for the week ending December 24th was such time as you had put in on the 18th?

A. That is right.

Q. Now, did you have any conversation with any—withdraw that.

Did you have any conversation with Mr. Hammond

(Testimony of H. N. Wingo.)

or Mr. Louie Robinson concerning the fact that you were receiving [1024] these checks from the company?

A. One check I went after—I don't recall which one it was—but I believe that Yankee Robinson was in the pay office.

Q. Who is Mr. Yankee Robinson?

A. He is an employee of the Boswell Company, works in the office.

Q. Well, was your conversation with Yankee Robinson or Mr. Gordon Hammond or Louie Robinson?

A. Well, I asked Yankee Robinson for my check and he looked through it and said he didn't believe I had one. He says, "Go ask Gordon. He is in his office."

Q. Then did you ask Mr. Gordon Hammond?

A. I did.

Q. And about how long was that after November 18th?

A. Well, I told you I didn't know which check it was.

Q. It was one of these checks for which you did no work, isn't that right?

A. Might have been the one where I worked four hours.

Q. One of these four checks, anyhow?

A. One of the four checks.

Q. And what then did Mr. Gordon Hammond say to you when you said—when you asked if he had a check?

(Testimony of H. N. Wingo.)

A. He said he thought so, he would go take a look.

Q. Did he take a look? [1025]

A. He went in and brought my check out.

Q. Was that all the conversation you had with him at that time? A. That is all.

Q. Did you have any conversation at any time with either Mr. Gordon Hammond or Mr. Louie Robinson regarding the reason for your receiving these checks? A. No.

Q. Well, what did you understand the reason to be?

Mr. Mouritsen: Objected to.

The Witness: Well, I understood that they was going to pay us for a short time, until this was settled.

Mr. Clark: May I have that read back? I didn't quite get it.

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark): In other words, you understood that you were being carried on the payroll until this matter was straightened out, isn't that right. A. Yes.

Q. Did you ever hear about a meeting between Mr. Prior and Mr. Louie Robinson which took place on November 28, 1938, in the office building of the Boswell Company? A. No. [1026]

(Testimony of H. N. Wingo.)

Q. And at which the matter of reinstating you men who had joined the union was discussed?

A. No.

Q. Did you ever hear that? A. No. [1027]

Q. Did Mr. Prior ever make any report to you of any such meeting? A. No.

Q. Did he ever tell you that he had stated to Mr. Louie Robinson that unless Martin was re-employed, none of the Union men would come back to work?

A. You mean who told me that?

Q. Prior? A. No.

Q. Did you ever hear anything at all about that?

A. I can't say that I recall anything about it.

Q. Was that subject matter ever discussed in any of your Union meetings after November 28th?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial, already asked and answered.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark): Do I understand, then, Mr. Wingo, that you never heard anything at all about any such statement either in or out of the Union meeting?

A. Well, I saw Mr. Martin come down and talk to Mr. Hammond one day.

Q. I am talking about Prior, the conversation between Prior and Robinson?

A. I don't quite understand you. [1028]

Q. Well——

(Testimony of H. N. Wingo.)

Trial Examiner Lindsay (Interrupting): Read the question, please?

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: I will withdraw that, Mr. Examiner.

Q. Did you ever hear anything at all about such a conversation having occurred between Mr. Prior and Mr. Louie Robinson? A. No.

Q. Did you ever learn at any time after November 28, Mr. Wingo—I will withdraw that.

Now, let us go back a minute to the morning of November 18th.

Do I understand that you did not go over to the superintendent's office with the crowd that morning?

A. No, I did not go with the crowd. I went to the building after the crowd had went in.

Q. I see.

Then you just stayed outside, is that right?

A. I went in the hallway.

Q. Did you hear Mr. Louie Robinson make any statement to the men who gathered there?

A. No.

Q. Well, how did it happen, then, that you left the hallway [1029] to come back to the gin?

A. I heard some of the men say he said to go back and go to work.

Q. I see.

Then you went back to your gin, is that right?

A. That is right.

Q. How did it happen, then, you took your lunch pail and went home?

(Testimony of H. N. Wingo.)

A. That was after they came back and shut my machinery off the second time.

Q. Who did that? A. Kelly Hammond.

Q. Kelly Hammond? Was there any conversation at that time between you and Kelly Hammond?

A. No.

Q. Did you have any conversation at that time with any of the other Union men?

A. Not that I recall, other than I told Farr, as I went out the front door, I said, "Let's go. There is no use in trying to work here."

Q. Well, why was it that you left, Mr. Wingo?

A. I understood that they ordered all Union men to leave.

Q. And by "they," whom do you refer to?

A. The crowd that was gathered outside in the first meeting. [1030]

Q. You mean these other employees, is that right? A. Yes.

Q. And so you left? A. Yes.

Q. Have you at any time ever applied for your job back? A. No.

Q. At Boswell's? A. No.

Q. Why not?

A. I understood that I couldn't work until this was settled.

Q. Who told you that?

A. Just a rumor. I couldn't say who told me.

Q. Well, did Mr. Prior ever tell you that?

A. No.

(Testimony of H. N. Wingo.)

Q. Were you ever at any Union meeting at which a boycott was declared against Boswell?

A. Yes.

Q. Do you remember when that was with respect to November 18th?

A. Well, it was after November 18th.

Q. How long after, do you remember?

A. No, I don't.

Q. Was it a matter of days or weeks?

A. Days, I think.

Q. You think it was the next day? [1031]

A. I wouldn't say.

Q. Well, at that meeting was any statement made by Mr. Prior or anybody else respecting whether or not you men should go back and apply for jobs?

A. I don't recall it if there was.

Q. At any Union meeting since that time, has there been any statement made to you by Mr. Prior or anybody else to the effect that you should not go and apply for a job at Boswell's?

A. I don't remember.

Q. In other words, as I understand it, you just assumed that if you went there you wouldn't be given a job, is that right?

A. Yes. I got a letter from them stating they didn't—I don't know, I took it that I was fired and laid off permanently.

Q. Have you the letter with you?

A. Yes.

(Testimony of H. N. Wingo.)

Q. Let me see it, will you?

(The document referred to was passed to Mr. Clark.)

Mr. Clark: I will ask that it be marked for identification, your Honor.

You don't mind if we keep it in the hearing here, do you?

The Witness: No.

(Thereupon, the document above referred to was marked as Respondent Boswell Company's Exhibit No. 7 for identification.)

Q. (By Mr. Clark): Did you receive this letter that you have [1032] just given me about the date it bears, namely December 6th of 1938?

A. About that time.

Q. And you, of course, received it through the mail? A. Yes.

Mr. Clark: We offer it in evidence, your Honor.

Mr. Mouritsen: I object to it on the ground it is a self-serving document.

Trial Examiner Lindsay: May I see it?

(The document referred to was passed to the Trial Examiner.)

Mr. Clark: I submit the objection.

Trial Examiner Lindsay: It may be received.

(Thereupon, the document above referred to was received in evidence and marked as Respondent Boswell Company's Exhibit 7.)

(Testimony of H. N. Wingo.)

BOSWELL'S EXHIBIT No. 7

J. G. BOSWELL COMPANY

Cotton Merchants and Manufacturers

Of Cottonseed Products

Home Office, Los Angeles, California

Corcoran, California

December 6, 1938.

Registered mail return receipt requested.

Mr. H. N. Wingo
Corcoran, California

Dear Sir:

Because of the reduced receipts at our plant of seed cotton for ginning, and in accordance with our usual operating practice, we closed down gin #2 on which you were employed, Saturday, December 3, at 5 P. M. and your employment by this Company terminated at that time.

Your closing pay check has been issued and will be delivered to you at the usual place in our Corcoran office.

Yours very truly,

J. G. BOSWELL COMPANY

LOUIS T. ROBINSON

[Endorsed]: Filed May 26, 1939.

Q. (By Mr. Clark): Now, Mr. Wingo, what is there about this letter which leads you to the statement that you thought you were permanently discharged?

(Testimony of H. N. Wingo.)

A. Well, I can't pronounce the word exactly (indicating).

Q. Terminated? A. "At this time."

Q. Well, you understood this letter, didn't you?

A. Yes, I think I did.

Q. Well, what did you understand it to say? [1033]

A. That I was laid off.

Q. Permanently?

A. Well, no, it says at this time.

Q. But doesn't it simply say that "Because of reduced receipts at our plant of seed cotton for ginning——"

A. (Interrupting): Yes.

Q. (Continuing): "——and in accordance with our usual operating practice——"

Mr. Mouritsen (Interrupting): Just a moment. I object to counsel reading something that is in evidence into the record.

Mr. Clark (Continuing): "——we closed down gin Number 2 on which you were employed, Saturday, December 3rd, at 5:00 p. m., and your employment by this Company terminated at that time."

Isn't that all the letter says? A. Yes.

Q. That you had been laid off?

Trial Examiner Lindsay: The document is in evidence and it speaks for itself.

Mr. Clark: I am simply asking the question from the document.

Q. You have been laid off on other occasions, haven't you? A. Yes.

(Testimony of H. N. Wingo.)

Q. In fact, during this same year you had been laid off? [1034] A. Yes.

Q. And yet you went back and applied for your job, didn't you? A. Yes.

Q. But at that time, you didn't belong to the Union, did you? A. No.

Q. And at that time no boycott had been declared against this Company, had it? A. No.

Q. That you know anything about.

Isn't it true that the reason you didn't go back, or you haven't gone back since December 6th and asked for further work at the Boswell Company is that you and all other Union members are taking part in this boycott against the Company? [1035]

Mr. Mouritsen: May I have the question read?

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: Objected to as vague——

Mr. Clark (Interrupting): I will submit it.

Trial Examiner Lindsay: Do——

Mr. Clark (Interrupting): If he understands the question, I submit I have the right to have it answered.

Trial Examiner Lindsay: Read the question again.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: You may answer.

The Witness: No.

Q. (By Mr. Clark): What is your reason?

(Testimony of H. N. Wingo.)

A. I don't work under the conditions as they were when I left there.

Q. And what did you understand those conditions to be?

A. The men said union men couldn't work there.

Q. And by "the men" you mean the other employees of the company, don't you? A. Yes.

Mr. Clark: That is all.

Redirect Examination

Q. (By Mr. Mouritsen): From time to time during your prior [1036] lay-offs, Mr. Wingo, did anyone from the company ever come after you and request that you go back to work?

A. Maybe I didn't understand that.

Mr. Mouritsen: I will reframe it. It is awkwardly put.

Q. Were you ever, after one of your lay-offs, while you were employed by the company, did anyone ever come after you for you to go to work?

A. Yes.

Mr. Clark: All right.

Q. (By Mr. Mouritsen): I mean, did they come to your place and do that? A. Yes.

Q. Did they do that on more than on occasion?

A. Yes; not the same man.

Q. Well, can you give us the name of any persons who did come after you to go to work on some of your prior lay-offs?

A. Mr. Gordon Hammond?

Q. Any other?

A. Nick Thompson. He came to tell me of a job,

(Testimony of H. N. Wingo.)

said Mr. Hammond sent him. It wasn't for Boswell's, the job wasn't.

Mr. Clark: It wasn't for Boswell's? Is that what you said?

The Witness: Yes.

Q. (By Mr. Mouritsen): Well, on the occasion when Mr. [1037] Gordon Hammond came after you to go to work, was that for work at Boswell's?

A. Yes.

Q. Well, for whom did you go to work on the occasion when Nick Thompson came after you?

A. The Tulare Lake and Land Company, I believe the name of the firm is.

Q. What position if any did Nick Thompson ever hold with the J. G. Boswell Company?

A. Well, I understand that he was——

Mr. Clark (Interrupting): I object to that upon the ground it calls for a conclusion of this witness and is hearsay. He starts out by saying I understand this and that.

Trial Examiner Lindsay: If he knows, he may answer.

Mr. Clark: All right. Very well.

The Witness: I don't know definitely. It was generally, he was generally spoken of as the night foreman.

Mr. Clark: Well, I move that the answer go out, may it please your Honor, on the ground it is a conclusion of this witness and is based on hearsay, no authentic information.

(Testimony of H. N. Wingo.)

Trial Examiner Lindsay: Well, these people work out there and they should have some information. The answer may stand for what it is worth.

Mr. Clark: Do I understand that this answer is that this man was the night foreman at Boswell's? [1038]

Trial Examiner Lindsay: Yes, that is my understanding of it.

The Witness: Yes.

Q. (By Mr. Mouritsen): Well, did you ever work on the night shift? A. Yes.

Q. At Boswell's?

And did you take your orders from this man, Nick Thompson? A. I did.

Q. Now, directing your attention to the time when the oil mill, I believe you stated, closed down around the latter part of September 1938, am I correct in stating that you did work in the oil mill at that time prior to the shutdown? A. Yes.

Q. Now, approximately how many days intervened between the time after you were laid off in the oil mill before you started to work in the gin?

A. Well, the best I can recollect, it was some six or eight days. It was a short period of time.

Q. And when you went to work in the gins on that occasion, were—was George Andrade at work at that time? A. I don't think so.

Q. Was R. K. Martin at work at that time?

A. I don't think so. [1039]

Q. Was O. L. Farr at work at that time?

(Testimony of H. N. Wingo.)

A. It seems to me that he went to work the morning I did. I wouldn't be positive.

Q. And did—do you recall whether or not after that time Martin and Andrade came to work?

A. They came back to work, but I couldn't just say just when.

Mr. Mouritsen: Nothing further.

Mr. Clark: Just a few more questions if I may, your Honor.

Recross Examination

Q. (By Mr. Clark): What were you doing before you went to work for Boswell's in 1937?

Mr. Mouritsen: Objected to as immaterial and beyond the issues in the case.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well. I will accept the ruling. That is all.

Mr. Mouritsen: Nothing further.

(Witness excused.)

Mr. Mouritsen: Call Mr. Winslow.

WALTER WINSLOW

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined [1040] and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): What is your name?

A. Walter Winslow.

(Testimony of Walter Winslow.)

Trial Examiner Lindsay: Now, Mr. Winslow, talk right up just as if you were at the plant so we can hear you.

Q. (By Mr. Mouritsen): Where do you live, Mr. Winslow?

A. Out west of town here about two miles.

Q. Have you ever worked for the J. G. Boswell Company? A. Yes, sir. [1041]

Q. Do you recall when you first started to work for that Company? A. September in '35.

Q. What type of work did you start to do for the Company at that time?

A. I started to work as a hay cutter.

Q. What rate of pay did you receive?

A. 30 cents.

Q. 30 cents per hour? A. Yes, sir.

Q. And have you worked for the Company off and on since September, 1935, up to November of 1938? A. I have.

Q. And what types—what different types of work have you done for the Company during that period? A. Well, different types.

Q. Well, will you state—name the types of different kinds of work you have done?

A. I worked in the cattle corrals; worked in the seed house; oil mill; warehouse and outside work.

Q. Did you ever receive any increases in pay after starting to work for the Company?

A. I did.

Q. What were you receiving per hour when you

(Testimony of Walter Winslow.)

last worked for the Company in the year 1938? [1042] A. 40 cents.

Q. From the beginning of 19—from the beginning of your employment, did you ever have any lay-offs that were more than a month in extent?

A. Not until '38.

Q. When during the year 1938 were you laid off for a period of more than a month?

A. One time.

Q. Well, can you give us the approximate beginning and the approximate end of that lay-off?

A. Well, the mill shut down in March, '38, and—the latter part of March, and I was laid off about a month.

Q. And then when did you go back to work for the Company?

A. Well, I got off about a month, to the best of my knowledge. I went back to work chopping weeds.

Q. And where?

A. Out in the cotton yard.

Q. Well, was that at the Boswell Company's plant here in Corcoran? A. It was.

Q. And how long did you continue to do that type of work? A. About a couple of weeks.

Q. Did you work at the plant during the Summer of 1938?

A. Well, just part time work. On, probably, a week, and off a week. [1043]

Q. Well, in the Summer of 1938—strike that. When did you—strike that.

(Testimony of Walter Winslow.)

Did you start to work for the Company in the Fall of 1938 again, steadily?

A. Well, I did when the gin started.

Q. And when was the approximate date when that occurred? A. I couldn't say.

Q. Well, can you fix the month?

A. On or about the latter part of September.

Q. What work did you—strike that.

Did you work in the gins?

A. I worked on the outside of the gin as a—outside of the gin as a—feeding suction.

Q. How long did you continue to do that type of work? A. About two weeks.

Q. What type of work, if any, did you do?

A. I was laid off for five days and started in in the oil mill.

Q. What type of work did you do there?

A. Chasing lint.

Q. How long did you continue to do that?

A. Until the 15th of November.

Q. What year? A. '38.

Q. What occurred on the 15th — strike that. [1044]

Did anything occur on the 15th of November, 1938, that indicated to you that your employment was to cease? A. It did.

Q. Did you ever have a conversation with someone about that matter? A. I did.

Q. With whom? A. Tommy Hammond.

Q. And where did the conversation take place?

A. Right at the back of the lint room.

(Testimony of Walter Winslow.)

Q. Was anyone else present other than you and Mr. Tom Hammond?

A. Williams, W. E. Williams.

Q. Who is W. E. Williams?

A. A Boswell employee.

Q. Was he at that time an employee?

A. He was.

Q. Did he take any part in the conversation?

A. No, he didn't.

Q. Will you state what you said to Tommy Hammond and what Tommy Hammond said to you at that time?

Mr. Painter: Objected to as hearsay, and not binding on any of the Respondents; on the further ground that no authorization was shown.

Trial Examiner Lindsay: He may answer.

The Witness: Tommy Hammond came out a couple or three times [1045] during the 15th of November.

Q. (By Mr. Mouritsen): Well, did you fix the first conversation you gave?

Mr. Painter: May I have that answer, Mr. Examiner?

Trial Examiner Lindsay: Let us not both talk at the same time.

What did you want?

Mr. Painter: The answer that the witness gave just prior to the last question, and I didn't get the first part of the question.

Trial Examiner Lindsay: Read the answer and the question.

(Testimony of Walter Winslow.)

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Now, you may answer. The question means, what was the first conversation?

The Witness: Well, the first time he came out he said, "It looks like the mill is going to have to shut down on account of the boys joining the Union."

Q. (By Mr. Mouritsen): Did you say anything at that time?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: Well, I didn't say anything at that time.

Q. (By Mr. Mouritsen): After that time, did you have a further conversation with Mr. Tommy Hammond? A. I did. [1046]

Q. And where did that conversation take place?

A. At the back of the lint room up by the scales.

Q. Was anyone else present other than yourself and Mr. Tommy Hammond at that time?

A. That was the time Williams was there.

Q. Well, what did you say to Mr. Tommy Hammond at that time, and what did he say to you?

Mr. Painter: Objected to as hearsay and not binding on these Respondents, and no authorization shown on behalf of Tommy Hammond.

Trial Examiner Lindsay: He may answer. [1047]

The Witness: Tommy Hammond said, "We are

(Testimony of Walter Winslow.)

shutting the mill down tonight at 6:00 o'clock on account of the union. Where are you going to place your card at any other place but here?"

I said I thought I could.

Q. (By Mr. Mouritsen): Was anything further said at that time?

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: He said, "We can't use here at this plant and no place else."

Q. (By Mr. Mouritsen): Do you recall anything further that was said at that time?

A. No, I don't.

Q. Well, after that conversation—strike that.

Did you have a further conversation with him on that day? A. No.

Q. Well, was that the conversation that indicated to you that your work was terminated at that time?

Mr. Painter: Objected to as calling for a conclusion of the witness.

The Witness: You mean on the 15th?

Trial Examiner Lindsay: He may answer.

Mr. Mouritsen: Strike that. [1048]

Q. When did you last work for the J. G. Boswell Company? A. November 15th.

Q. Now, did you have another conversation—strike that.

Was that the conversation that indicated to you that your employment was terminated?

(Testimony of Walter Winslow.)

And I will stipulate that the objection made applies.

The Witness: On the 15th.

Q. (By Mr. Mouritsen): Well, I understand, Mr. Winslow, that the 15th was the last day you worked. A. Yes, sir.

Q. Now, some time during that day did somebody lay you off?

A. Joe Hammond did that night.

Q. Oh, well, this conversation that you referred to with Tom Hammond wasn't the conversation that indicated to you that you were laid off, is that correct?

A. I knew it about 2:00 or 3:00 o'clock in the afternoon.

Q. This conversation with Tom Hammond wasn't the conversation that indicated to you that you were laid off? A. No.

Q. Now, I believe you stated that you had a later conversation with Joe Hammond at which he told you you were laid off, is that correct?

A. Yes, I did.

Q. Where did that conversation take place? [1049]

A. Right back of the lint room.

Q. Was anyone else present other than yourself and Joe Hammond at that time?

A. There was.

Q. Who else was present?

A. Dick White, W. E. Williams, Doc White, myself, and Tom Donohough. That was it.

(Testimony of Walter Winslow.)

Q. Approximately how late, or what was the time of day? A. 5:00 o'clock.

Q. What did Mr. Joe Hammond say to you at that time?

Mr. Painter: Objected to as hearsay and not binding on these respondents.

Trial Examiner Lindsay: He may answer.

The Witness: He didn't exactly say it to me. He said it to the bunch of us, to the group.

Q. (By Mr. Mouritsen): What did he say?

Mr. Painter: Same objection.

Trial Examiner Lindsay: The same ruling.

The Witness: He came out about 5:00 o'clock where the men—there was a bunch there kind of squatting down and talking, and he said, "Well, I am sorry, but we are going to shut the mill down." That was 5:00 o'clock.

It always takes about an hour to dry the linters for the stuff to all run out of the expellers.

Q. (By Mr. Mouritsen): Do you recall anything further that [1050] he said or that anyone else in that crowd said?

Mr. Painter: The same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: No, I don't.

Q. (By Mr. Mouritsen): Now, prior to that time, or prior to that last lay-off, had you ever been notified by anyone from the company—strike that.

How had you been notified, if you had been notified, to return to work on prior lay-offs?

(Testimony of Walter Winslow.)

A. Well, by Julius Hammond, by Tommy and Joe—they came after me at different times.

Q. They came to your house and notified you that you were to come to work? A. Yes, sir.

Q. Have you since that time, that is, November 15, 1938, been notified to return to work?

A. No, sir.

Q. During the course of your employment with the J. G. Boswell Company do you recall an occasion when you refused to obey on order of Tom Hammond's?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes, sir.

Q. (By Mr. Mouritsen): Do you recall about when that event [1051] occurred? A. In '36.

Q. Which part?

A. The first part, around the first of the year.

Q. Is there any way by which you can fix the date more specifically than by around the first of the year?

A. No, only, I think, I put in three months as a hay cutter and then I first transferred to the seed house.

Q. This occurred when you were first transferred to the seed house, is that correct?

A. Yes, sir. [1052]

Q. And after you refused to obey the order of Tom Hammond, did you ever have a conversation with Gordon Hammond about that matter?

(Testimony of Walter Winslow.)

A. I did.

Q. Do you recall how long after you refused to obey the order that you had the conversation with Gordon Hammond?

A. Not over a day or two.

Q. Do you recall where the conversation took place? A. In the seed house.

Q. Was anyone else present other than you and Mr. Gordon Hammond?

A. No, there wasn't.

Q. Will you state what Mr. Gordon Hammond said to you on that occasion, and what you said to Gordon Hammond?

A. Well, he said, "I am accustomed for men taking orders from Joe or Julius or Tommie, and I expect them to be carried out. If a man cannot take orders from them, I have no use for him any longer."

Q. Do you recall anything further that was said at that time? A. No.

Q. Speak out loud for the reporter.

A. No; not at that time.

Q. Have you earned any money since your lay-off on November 15th, 1938? [1053]

A. I have.

Q. Do you know approximately how much money you have earned since that time?

A. I do.

Q. Will you state the approximate amount of money you have earned since that time?

A. \$9.50.

(Testimony of Walter Winslow.)

Q. While you were employed by the J. G. Boswell Company, did you ever become a member of a labor organization? A. I did.

Q. Of what organization did you become a member?

A. The Cotton Products and Grain Mill Workers' Union, 21798.

Q. And on approximately what date?

A. The Ninth of November, I signed my application.

Q. In what year? A. '38.

Q. After you signed your application on or about November 9th, 1938, did you attend any meetings of the Union?

A. Not as I recall until the 16th.

Q. At that meeting of the 16th, did you see Mr. E. C. Powell present? A. I did.

Q. Do you recall whether or not he said anything to you or you said anything to him at that meeting?

Mr. Painter: Objected to as incompetent, irrelevant and [1054] immaterial.

Mr. Mouritsen: I think I should be permitted to ask my question.

Mr. Painter: I beg your pardon. I thought you were through.

Mr. Mouritsen: May I have it re-read?

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.)

(Testimony of Walter Winslow.)

Q. (By Mr. Mouritsen) (Continuing): —of November 16th, 1938?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: No, I cannot say that I do.

Q. (By Mr. Mouritzen): Now, Mr. Winslow, if the National Labor Relations Board should order your re-instatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. I would.

Trial Examiner Lindsay: We will adjourn now until 8:30 in the morning.

(Whereupon, at 4:30 o'clock p. m., May 26, 1939, the hearing was adjourned to 8:30 o'clock a. m., Saturday, May 27, 1939.) [1055]

American Legion Hall,
Corcoran, California,

Saturday, May 27, 1939.
8:30 o'clock a. m. [1056]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Respondents are ready.

Mr. Mouritsen: Ready for the Board.

Mr. Examiner, at the opening of the Board's case,

I stated that we would endeavor to present first, the evidence against the J. G. Boswell Company, and then against the Associated Farmers, and then against the Corcoran Telephone Exchange. However, one of the witnesses in the matter of the Corcoran Telephone Exchange will not be available later, and we desire at this time to put the witness on the stand.

Mr. McTernan, my associate, will conduct the examination.

Trial Examiner Lindsay: If it is agreeable to counsel for the Respondents.

Mr. Clark: Except for this, Mr. Examiner, in behalf of Boswell Company and the Associated Farmers of Kings County, I want to make the objection heretofore interposed to any testimony, or rather the reception of any evidence in support of the so-called Dunn charge, which is the one I understand involving the Corcoran Telephone Exchange, upon the ground that there was no service of that charge upon these Respondents, that is, Boswell Company or Associated Farmers of Kings County, as required under the Act.

I believe I have stated the grounds fully, and your Honor has ruled upon that general proposition. I made an objection at [1058] the outset, and I now make it in the form of a motion to exclude this evidence.

Now, further, on behalf of the Associated Farmers of Kings County, I want to point out to the Court and base the motion upon this further ground, that

nowhere in this complaint or in the fourth amended charge is it claimed or alleged that the Associated Farmers of Kings County have acted in the interest of the Corcoran Telephone Exchange or as an employer in connection with the Corcoran Telephone Exchange within the meaning of that term as used in the Act.

Mr. Wingrove: Your Honor——

Mr. Clark (Interrupting): Might I add one further thing: I don't wish to argue it, Mr. Lindsay. I simply want to make it for the record and take the ruling on it.

Mr. Wingrove: Mr. Examiner, as counsel for the Corcoran Telephone Exchange, I have no objection to the attorney for the Board putting the witness on out of order. However, I do desire at this time to interpose an objection to the taking of the testimony on the ground that the Respondent, Corcoran Telephone Exchange, has never been served with the charge by Mrs. Dunn; the only charge being one filed by Mr. Prior, representative of the Union, and there being no authority shown or connection between Mrs. Dunn and Mr. Prior.

I also desire to object to the introduction of testimony on the ground that there has been no proof shown of the juris- [1059] diction of the Board as far as the Corcoran Telephone Exchange is concerned.

Mr. Clark: We will also subscribe, on behalf of Boswell Company and Associated Farmers of Kings County, to that last objection, your Honor, that

there has been no proof of the jurisdiction of the National Labor Relations Board, or rather no proof which would support the Board taking jurisdiction over the Corcoran Telephone Exchange.

Now, I likewise have no objection at all to the witness being called out of order.

Trial Examiner Lindsay: Now, have both of you gentlemen completed your——

Mr. Clark (Interrupting): Yes, I think so.

Trial Examiner Lindsay (Continuing): —— your motions?

Mr. Wingrove: Yes, your Honor.

Trial Examiner Lindsay: Have you anything to say on this matter, Mr. Mouritsen?

Mr. Mouritsen: Mr. Examiner, the allegations in the complaint are that the Corcoran Telephone Exchange is subject to the jurisdiction of the Board in either of two ways. Perhaps, or I would have no objection, to taking this testimony at this time subject to a motion to strike in the event that the allegations of jurisdiction are not later proved.

Trial Examiner Lindsay: The motions are denied, and you may proceed. [1060]

Mr. McTernan: Miss Dunn.

DOROTHY DUNN

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. McTernan): Will you state your full name, please? A. Dorothy Dunn.

Q. And your address?

A. You mean my Los Angeles address?

Q. Well, wherever your residence is.

A. 801 Hillgard, Los Angeles, California.

Q. You are here under subpoena, are you not, Miss Dunn? A. Yes, sir.

Q. Are you the daughter of Margaret A. Dunn?

A. Yes, sir. [1061]

Q. Are you acquainted with Drexel H. Sprecher?

A. Yes.

Q. Could you tell us who he is?

A. Mr. Sprecher is an attorney for the National Labor Relations Board in Washington, D. C.

Q. When did you first meet Mr. Sprecher?

A. I met Mr. Sprecher in Los Angeles, on a bus in Los Angeles.

Q. In what year was that, Miss Dunn?

A. This year.

Q. 1938? A. 1939.

Q. 1939. Pardon me.

Well, where did you meet Mr. Sprecher? I mean, under what circumstances did you meet Mr. Sprecher?

Mr. Wingrove: I object, Mr. Examiner, on the

(Testimony of Dorothy Dunn.)

ground it is incompetent, irrelevant and immaterial whether this witness met Mr. Sprecher or not, no bearing on the case.

Mr. Clark: The same objection on behalf of the Associated Farmers of Kings County and the Boswell Company.

Trial Examiner Lindsay: Will you gentlemen come up here a minute?

(Conference between counsel and Examiner Lindsay.)

Mr. McTernan: May we have the last question read?

Trial Examiner Lindsay: Yes, read the last question. [1062]

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: She may answer.

The Witness: I met Mr. Sprecher at the Los Angeles bus station. We were both going to Corcoran on the same bus.

Q. (By Mr. McTernan) And you accompanied him on the trip to Corcoran? A. Yes, sir.

Q. Well, when you arrived in Corcoran did anyone meet you at the station?

A. Mr. Prior met us at the station.

Q. Did you know Mr. Prior before that time?

A. No, I did not.

Q. Well, then, what occurred?

A. Mr. Prior and Mr. Sprecher and I got into Mr. Prior's car and came over to my house; and

(Testimony of Dorothy Dunn.)

at that time Mr. Sprecher got out of the car and went into the house with me and Mr. Prior remained in the car.

Q. Was anybody else in the house when he came in with you?

A. My brother and my sister and Mr. Secord.

Mr. Clark: May I have the last name?

Trial Examiner Lindsay: Mr. Secord. Is that right?

The Witness: Mr. Secord, yes.

Q. (By Mr. McTernan) Well, could you give us the name of [1063] your brother and sister?

A. My brother Jack Dunn and my sister Margaret Dunn.

Q. Did any conversation follow this meeting when you came into the house?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial on behalf of Boswell and the Associated Farmers of Kings County.

Mr. Wingrove: I have the same objection on behalf of the Telephone Exchange.

Trial Examiner Lindsay: She may answer.

Q. (By Mr. McTernan) Answer that yes or no. A. Yes.

Q. Will you state what you said to them, any of them, or what any of them said to you?

Mr. Wingrove: Objected to as hearsay, not binding on respondent Telephone Exchange.

Mr. Clark: The same objection on behalf of the other respondents.

(Testimony of Dorothy Dunn.)

Trial Examiner Lindsay: She may answer.

The Witness: I introduced Mr. Sprecher and Mr. Prior to each other, and Mr. Sprecher is the attorney for the N.L.R.B. And Mr. Secord is an employee of the Boswell Company.

There wasn't anything said at that time—I mean between the two of them—except acknowledging the introduction; [1064] nothing said until Mr. Sprecher left.

Q. (By Mr. McTernan) After that you say Mr. Sprecher left the house? A. Yes, sir.

Q. Could you tell us the conversation that took place after Mr. Sprecher left?

Mr. Clark: Just a minute. I am going to object to that on behalf of the respondent Boswell and the Associated Farmers of Kings County on the ground it is hearsay and not binding upon either of the respondents, and incompetent, irrelevant and immaterial what was said between this lady and the other persons present after Mr. Sprecher had left even.

Mr. Wingrove: The same objection as to the Telephone Exchange.

Trial Examiner Lindsay: She may answer.

The Witness: I was at that time speaking with Mr. Secord and he told me of the ill feeling toward Mr. Prior and that it was very bad for me to be with him.

Q. (By Mr. McTernan) Is that all that he said?

(Testimony of Dorothy Dunn.)

A. There was more conversation, but it had very little bearing or connection with Mr. Prior.

Mr. Clark: May the same objection be interposed to the last question, your Honor?

Trial Examiner Lindsay: Yes. It is overruled, the ob- [1065] jection.

Q. (By Mr. McTernan) When did you next meet Mr. Sprecher?

A. I didn't—I saw Mr. Sprecher on the street the next day in Coreoran.

Q. When did you next see Mr. Prior?

A. I saw Mr. Prior on the next day also.

Q. And after that when did you next see Mr. Prior?

A. I didn't see Mr. Prior again until about the—oh, a week or so later, about the 8th of February.

Q. Yes.

A. And at that time I saw him at the—while he was at the picket line at the Boswell Company.

Q. Will you give us a little more detail about that meeting with Mr. Prior, what were the circumstances?

A. Well, my sister and I were driving—

Q. (Interrupting): Which sister? Could you name her, please?

A. My sister Margaret and I were riding out by the Boswell Company, and I was driving the car, and when we passed the picket line and I saw Mr. Prior in one of the picket cars, he waved; and I had been informed by Mr. Prior that Mr. Sprecher

(Testimony of Dorothy Dunn.)

would be in town the next day. And I had had a letter from Mr. Sprecher saying he wouldn't, so I thought maybe Mr. Prior wanted to tell me about it. So I turned around and drove up across the street from the picket car and Mr. Prior got out of the picket car and stood on the outside of my car. [1066]

Q. Could you give us what you said to him, and what he said to you at that time?

Mr. Clark: Objected to on the ground it is hearsay, and not binding on the Respondents Boswell and the Associated Farmers, and incompetent, irrelevant and immaterial.

Mr. Wingrove: The same objection as to the Telephone Exchange.

Trial Examiner Lindsay: She may answer.

The Witness: Mr. Prior spoke to me—first, I told Mr. Prior about Mr. Sprecher would not be in town, and he said he had heard about that; and we talked about Mr. Sprecher, just a few personal things that were said about my knowing Mr. Sprecher. And then we talked on about the case.

Q. (By Mr. McTernan) What case?

A. The Boswell strike.

And he told me about the hearings that would be held and we didn't discuss anything about them except that he said just as a spectator it would be very worth while and interesting for me to attend the hearings.

Q. While you were talking to Mr. Prior, did anyone see you or come by? A. Yes.

(Testimony of Dorothy Dunn.)

Q. Who was that?

A. Mr. Forrest Riley and his daughter, Hazel.

Q. Did they see you, or give any indication of the fact that [1067] they saw you?

A. Yes, they waved to us.

Q. Did they come back again? A. Yes.

Q. And did they wave to you again?

A. I don't believe so.

Q. Did they look at you? A. Yes.

Q. Have you ever seen either Mr. Prior or Mr. Sprecher since that time? A. No, sir.

Q. Did you ever have any further conversations with Mr. Secord whom you have mentioned before?

A. Yes, I did.

Q. When was that?

A. About two or three days after I had been out to the picket line.

Q. Where was this conversation held?

A. This conversation was held in the soda fountain in Corcoran.

Q. Was anyone else present within hearing distance? A. No.

Q. Can you tell us what you said to Mr. Secord, and what Mr. Secord said to you?

Mr. Wingrove: Objected to as hearsay, and incompetent, [1068] irrelevant and immaterial, and not shown to be authorized or in anywise connected with the Respondent, Corcoran Telephone Exchange.

Mr. Clark: The same objection in behalf of the remaining Respondents, your Honor.

(Testimony of Dorothy Dunn.)

Trial Examiner Lindsay: She may answer.

The Witness: Mr. Secord told me I was very much in the wrong with the people of Corcoran, that I had been seen at the picket line, and that many of the employees of the Boswell Company had seen me, and were very worked up over the fact I had been there.

Q. (By Mr. McTernan) Did he mention any names of people that had seen you there?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: The same ruling.

The Witness: After he told me that many of the employees had seen me, he said I should apologize to Mr. W. W. Boswell for he was very angry at the fact that I had been there.

Mr. Clark: May I have that last answer read, please?

Trial Examiner Lindsay: Yes. Read the last answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. McTernan) Who is Mr. W. W. Boswell?

Mr. Clark: Objected to upon the ground it calls for hearsay, and a conclusion of this witness. [1069]

Trial Examiner Lindsay: If she knows W. W. Boswell, she may state who he is.

The Witness: W. W. Boswell is the brother of J. G. Boswell, owner of the J. G. Boswell Company.

(Testimony of Dorothy Dunn.)

Q. (By Mr. McTernan) In the beginning of your testimony, Miss Dunn, you gave your address as 801 Hillgard, Los Angeles. Is that your home address, or is that where you go to school?

A. That is where I go to school.

Q. Could you give us your home address?

A. 1310 Jepson Avenue, Corcoran, California.

Mr. McTernan: You may inquire.

Cross Examination

Q. (By Mr. Wingrove) You say you met Mr. Strecher when you came to Corcoran in the bus with him? A. Yes.

Q. This was about February 1st?

A. Yes, sir.

Q. And Mr. Secord was on the bus at that time, was he?

A. No. Mr. Secord was at my home in Corcoran.

Q. Did you and Mr. Sprecher return to your home in Corcoran, as I understand it, and Mr. Prior was there, was he, at your house, met you at the bus station, is that correct? A. At the depot.

Q. Then the three of you went to your home?

A. Yes. [1070]

Q. And Mr. Prior had met Mr. Sprecher before this time?

A. No. Mr. Prior had not met Mr. Sprecher before this time.

Q. Did Mr. Prior go into the house with you?

A. He did not.

Q. Just Mr. Sprecher and yourself?

(Testimony of Dorothy Dunn.)

A. Yes.

Q. And was Mr. Secord in the house?

A. Yes, he was.

Q. And your brother Jack and your sister Margaret were there? A. Yes.

Q. You say Mr. Secord was employed at the J. G. Boswell Company at that time?

A. Yes, he was.

Q. What did he do at the J. G. Boswell Company, do you know? A. He was an engineer.

Q. And that was the time he told you it was very bad for you to be seen with Mr. Prior, is that right? A. Yes.

Q. And later on, after you had stopped at the picket line, Mr. Secord told you you were in bad because you had been seen talking with the pickets?

A. Yes.

Q. And that Mr. Boswell didn't like it?

A. Yes.

Q. And did you ever talk to Mr. Boswell about the matter? [1071] A. Oh, I didn't.

Q. Did you ever talk to Mr. Glenn of the Corcoran Telephone Exchange about this matter?

A. No, I didn't.

Mr. Wingrove: That is all.

Mr. Clark: May I ask a few questions on behalf of the remaining Respondents, Mr. Examiner?

Cross Examination

Q. (By Mr. Clark) Miss Dunn, had you known Mr. Sprecher prior to the time you met him at the bus station? A. No.

(Testimony of Dorothy Dunn.)

Q. You had not met him prior to the occasion you have told us about? A. No.

Q. You got acquainted with him on the bus coming up here to Corcoran, is that right?

A. Yes.

Q. You had known Mr. Prior before that time, though, hadn't you? A. No.

Q. Didn't you tell us on your direct examination that you introduced Mr. Prior to Mr. Sprecher at your home here in Corcoran?

A. I introduced Mr. Sprecher to Mr. Secord.

Q. Oh, I see. [1072]

And you did not testify that you introduced Mr. Prior to anyone, or that you introduced Mr. Sprecher to Mr. Prior? A. No, sir.

Q. All right.

Now, let me direct your attention, if I may, to the time when you have told us you and your sister, I believe, drove down by the Boswell plant and waved to Mr. Prior and the picket car.

Do you remember that occasion?

A. Yes, I didn't wave to him.

Q. I mean, you saw him in the picket car?

A. Yes.

Q. You remember the occasion I am referring to, don't you? A. Yes, I do.

Q. Will you fix the date of that for us, please?

A. That was the 8th of February?

Q. This year? A. Of this year.

Q. Now, on that occasion, did you and Mr. Prior,

(Testimony of Dorothy Dunn.)

after you discussed the coming case before the Board, say anything about the strike of the Union against the Boswell plant? A. We did not.

Q. Did you mention the word "strike?"

A. I don't recall.

Q. Did Mr. Prior mention the word "strike" to you? [1073] A. I don't remember.

Q. Do you remember using that term on your direct examination here this morning?

A. Yes.

Q. You remember the connection in which you used it?

Trial Examiner Lindsay: May I have that question, please?

Q. (By Mr. Clark) Do you remember the connection in which you used it this morning?

A. No.

Q. Will you repeat—withdraw that.

Didn't Mr. Prior tell you on that occasion, Miss Dunn, that the members of the Union who had been employed by the Boswell Company prior to that time were on strike against the Company?

A. He did not.

Q. Do you remember anything at all he said about the existence of a strike?

A. We weren't talking about the strike. We were talking about my relationship with Mr. Sprecher, and then we discussed the hearing. That is all that was said. We weren't talking about the pickets.

Q. I see.

(Testimony of Dorothy Dunn.)

Then there was no mention at all of there being a strike in that conversation, is that true?

A. That is right. [1074]

Mr. Clark: That is all.

Mr. McTernan: No further questions.

(Witness excused.)

Mr. Clark: Now, may it please your Honor, just for the record, and in view of the response of Mr. Mouritsen to part of the objection which was made, I would like to move to strike this lady's testimony from the record, such motion being made on behalf of the Respondents Boswell and the Associated Farmers of Kings County, upon the grounds previously stated in support of the objection and upon the further ground that there is no jurisdiction shown by the record in the Board over either of these Respondents; and, further, there is no allegation at all in the complaint that either of the Respondents for whom I am making the objection, to-wit, Boswell and Associated Farmers of Kings County, Inc., acted in the interest of the Corcoran Telephone Exchange or come within the definition of employer under the Act.

Mr. Wingrove: I also desire to interpose a motion to strike the entire testimony on the grounds stated before the witness took the stand, namely, that there is no showing of any jurisdiction by this Board, and on the further ground—

Trial Examiner Lindsay (Interrupting): Over what Respondent?

Mr. Wingrove: The Respondent, Corcoran Telephone Exchange.

Trial Examiner Lindsay: May I see these Exhibits, please? [1075]

(The Exhibits referred to were passed to the Trial Examiner.)

Mr. Wingrove: I would also like to add to that motion, if the Examiner please, that the testimony of this witness be stricken, on the further ground that it is incompetent, irrelevant and immaterial, and has no bearing on the case, and does not tend to prove or disprove any of the issues in the case so far as the Respondent Corcoran Telephone Exchange is concerned.

Trial Examiner Lindsay: Well, off the record.
(Discussion outside the record.)

Trial Examiner Lindsay: The motions are denied. [1076]

Mr. Clark: Now there is just one thing I would like to clear, Mr. Examiner, if I may state it:

May the record show that Mr. Wingrove's cross examination was conducted this morning on behalf of the respondent Corcoran Telephone Exchange and my cross examination was on behalf of the other two respondents? I think I stated that at the outset.

Trial Examiner Lindsay: Yes.

Mr. Mouritsen: Yes.

Trial Examiner Lindsay: We will adjourn until Wednesday morning at 10:00 o'clock.

(Thereupon, at 9:10 o'clock a. m., the hearing was adjourned until 10:00 o'clock a. m., Wednesday, May 31, 1939.) [1077]

American Legion Hall,
Corcoran, California,

Wednesday, May 31, 1939.

10 o'clock a. m.

[1078]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

WALTER WINSLOW

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Direct Examination (Continued)

Q. (By Mr. Mouritsen) Mr. Winslow, prior to the time when you were laid off in November, 1938, did you ever have a conversation with Tom Hammond regarding your membership in the Union?

A. I did.

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

(Testimony of Walter Winslow.)

Q. (By Mr. Mouritsen) And how long prior to your lay-off did this conversation take place?

A. About two days.

Q. Where did the conversation take place?

A. Back of the lint room.

Q. Was anyone else present other than yourself and Tom Hammond?

A. Not in hearing distance.

Mr. Clark: May I have the answer?

Trial Examiner Lindsay: "Not in hearing distance."

Is that right? [1080]

The Witness: That is right.

Q. (By Mr. Mouritsen) Will you state what Mr. Hammond said to you at that time, and what you said to Mr. Hammond?

Mr. Painter: Objected to as hearsay, not binding upon the Respondents, no authorization shown for Mr. Hammond to speak for the Company.

Trial Examiner Lindsay: He may answer.

The Witness: Well, he came up in back of the lint room where we were standing out there—I was standing out by the scales—and he said, "Have you joined the Union?"

I said, "I have."

He said, "Have those other boys over here that is working with you" (indicating by motion of the thumb to the rear), "have they joined?"

I said, "Not as I know of."

Mr. Mouritsen: Let the record show that the

(Testimony of Walter Winslow.)

witness indicated the back, or motioned with his thumb when he said "the other boys."

The Witness: He meant the boys that were working.

Q. (By Mr. Mouritsen) Who were those? Do you recall who was present at that time, other than yourself, to whom he motioned in that manner?

A. Doc White, W. E. Williams and Nolan Butcher.

Q. Did you have any further conversation with him at that time? [1081]

A. No, I didn't.

Q. I believe you testified that the first Union meeting you attended was on November 16th, 1938, is that correct?

A. No. I was to a get-together on the 11th.

Q. Of what month and of what year?

A. November of '38.

Q. Where did that—strike that.

Was this get-together on the 11th a formal meeting of the Union?

A. No. I think it was mostly a get-together, as best I remember.

Q. Where did it take place?

A. Over at Lonnie Spear's.

Q. Do you recall the names of any other people who were present other than you? A. I do.

Q. Will you state them?

A. Coon—Mr. Coon. [1082]

Q. Is that E. C. Powell?

(Testimony of Walter Winslow.)

A. Yes, E. C. Powell.

R. K. Martin, Lonnie Spear, and George Andrade, Elgin Ely, and Johnston.

There were several more there, but that is about all that I can recall their names.

Q. Now—strike that.

Were you initiated into the union after that time?

A. I was.

Q. And on what date, if you recall?

A. 16th of November, 1938.

Q. Now, after your lay-off on November 15, 1938, did you ever attend a meeting in the company's offices at which Mr. Howard, a field examiner for the National Labor Relations Board, was present?

A. I did.

Q. Do you recall the approximate date of that meeting?

A. On or about the 17th of January.

Q. What year? A. 1938.

Q. What year? A. 1938.

Q. Was that 1938 or 1939? A. In 1939.

Q. And where did this conversation—where did this con- [1083] ference take place?

A. Louie Robinson's office.

Q. In the plant here in Corcoran?

A. J. G. Boswell, yes.

Q. Do you recall who—strike that.

How were you invited to the conference, or how were you notified?

A. I and George Andrade—we were just out

(Testimony of Walter Winslow.)

riding around and we came down to town here to the Corcoran Hardware. We pulled into the curb and Mr. Howard pulled in about the time we did.

He said, "come over here a minute, boys."

We stepped over to the car where he was at, and he asked us to come down there.

Q. And did you go down to the——

A. (Interrupting): We got into my car and went down there. By that time Mr. Howard and a few others were there by the time we got there.

Q. Will you state who other than yourself and Mr. Howard were present at that time?

A. On the inside of the office?

Q. In the office—in Louie Robinson's office on that occasion?

A. There was Louie Robinson, Bill Boswell, and Prior, Oliver Farr, Lonnie Spear, R. K. Martin, Elgin Ely, and Johnston, [1084] and Kelly Hammond, Bill Robinson, myself, and George Andrade. That is all I recall.

Q. Now, during that conference did you personally have any conversation with Louis T. Robinson? A. I did.

Q. Will you state what was said by yourself and what was said by Mr. Louis T. Robinson in that conversation?

A. I don't recall just how it came about, but he asked me if I took orders from Tommy Hammond. And I told him I did. And he said, "If Tommy Hammond told you something that you

(Testimony of Walter Winslow.)

didn't really think was right, would you go ahead and do it?"

I said, "I would, because when I first started to work in '36—it was in '36, the first month—he told; and Gordon told me if I—to take orders from him, if I couldn't carry them out I might as well quit."

And I turned around to Louie.

Q. Did Louie say anything to you after you made that statement? A. Yes.

Q. What did he say?

A. He said, "I won't hire you no more," or see that you wasn't hired no more, or something like that there. [1085]

Q. Did you say anything?

A. Yes. I said, "If they put you in my position—you were working for a guy and taking orders from him, and when you first started to work for him and you refused to carry out the orders or didn't carry out just what he said, and a higher guy than him came around and told you to carry out his orders, and wanted you to do so, and you had been taking orders as much as three or more years after that"—and he didn't say anything, and dropped his head.

Q. You say Louis T. Robinson didn't say anything in answer to your question?

A. No, he didn't.

Q. After your lay-off—strike that.

Did you have any further conversation with him at that time? A. No, I didn't.

(Testimony of Walter Winslow.)

Q. After your lay-off of November 15th, 1938, did you ever apply for work after that time?

A. No, I didn't.

Q. Why didn't you apply for work after that time?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: I didn't figure there was any use after the conversation I had with Tommy on the 15th of November, the day [1086] I was laid off.

Mr. Painter: May I have that answer read back?

Trial Examiner Lindsay: Yes. Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) I believe you testified on your prior examination that you were hired and laid off on a number of occasions prior to your final lay-off on November 15th, 1938; is that correct? A. Yes.

Q. Now, on any of those prior occasions, when you were called back to work, were you ever called back by Gordon Hammond?

A. Gordon never did come to my home and ask me to come back.

Q. Did anyone come to your home and ask you to come back? A. Yes.

Q. Who were they?

A. Tommie has come, and Joe Hammond came

(Testimony of Walter Winslow.)

after me, and Kelly Hammond came after me, and Julius Hammond.

Q. Now, on these prior occasions, prior to November 15th, 1938, when you were laid off, did Gordon Hammond notify you of your lay-offs on any occasion?

A. The best I recall, Gordon never laid me off over once or twice.

Q. And on the other occasions, who laid you off?

A. It would be Tommie or Joe or Julius, when Julius was down [1087] there.

Q. Tommie, Joe and Julius. What are their last names? Please?

A. Hammond. They are all brothers.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Painter) Mr. Winslow, I believe you testified in your direct examination that you, during the course of time you were employed there, you had done the following work—type of work, rather: Hay cutter. You worked in the cattle corral, in the seed house and in the lint room in the mill, and in the warehouse and outside work chopping weeds and feeding the suction on the gin; is that correct?

Were there any other types of work that you did during that time that you can recall?

A. That is about as well as I can place it. [1088]

(Testimony of Walter Winslow.)

Q. Can't think of anything else that you did during the time you worked there?

A. That covered about everything there is there to cover.

Q. In other words, you have done a little bit of everything? A. A little bit of everything.

Q. Now, when did you sign an application to join the union? A. 9th of November.

Q. The 9th.

And then you attended this meeting on the 11th that you mentioned this morning? A. I did.

Q. You actually were initiated after you had been laid off, is that right? A. Yes.

Q. Now, directing your attention to the time that the mill opened in October, do you recall that approximately, that time? I think it was the latter part of October that the mill opened.

Mr. Mouritsen: Objected to as indefinite. Let us have the year fixed.

Trial Examiner Lindsay: What year?

Mr. Painter: 1938.

The Witness: (Pause).

Trial Examiner Lindsay: Read the question. I don't believe you had completed it. [1089]

Mr. Painter: I was just directing his attention to that time.

Q. Do you recall when the mill opened in October? A. No, I don't, the date.

Q. Well, do you remember the fact that it did open in October some time?

(Testimony of Walter Winslow.)

A. (Pause) I wouldn't even say that.

Q. You went to work in the mill, did you not, during the months of October and up to the time that you were laid off?

A. Well, I went to work when the mill started up.

Q. Yes. That is what I am directing your attention to, then.

A. As far as the date, I couldn't tell you that.

Q. Do you recall just shortly before the mill opened up, at that time, that is, the last time that you worked in the mill, that Gordon Hammond brought a list around to you and asked you to sign along with the other employees as to your preference whether you would work 8 or 12 hours?

A. I did.

Q. And you signed that indicating a preference of 12 hours, did you not? A. I did.

Mr. Mouritsen: This is objected to as incompetent, irrelevant and immaterial; has no bearing upon the issues in this matter. [1090]

The Witness: I would like to go ahead and finish that there. He has started on it.

Trial Examiner Lindsay: The answer may stand.

Q. (By Mr. Painter) Now, at the time——

Mr. Mouritsen (Interrupting): May the witness be permitted to finish?

Mr. Painter: Pardon me.

The Witness: When he brought that paper

(Testimony of Walter Winslow.)

around, I understood about three or four days before he brought it around, rumors went around that a man didn't sign 12 hours, he wasn't to have a job; couldn't go back into the mill. A few of the employees, Kelly Hammond, Burdine and Mitchell, two or three of the others had their names up there first, 12 hours, and I understood if it was 8 hours they wouldn't start the mill and 12 hours they would start the mill, and I figured, well, if I sign 8, I ain't got no job and if I sign 12 I go ahead and work when the mill starts up.

Mr. Painter: I move that the latter part of the answer be stricken as not responsive, hearsay, and not binding upon these respondents.

Trial Examiner Lindsay: The answer may stand. [1091]

Q. (By Mr. Painter) At the time you signed this list, you noticed that there was a letter attached to the list, did you not?

A. I never saw the letter.

Q. You say that the first few names on the list were Kelly Hammond and a few of those?

A. The best I recall there were.

Mr. Painter: I will offer this in evidence—I offer this for identification as Respondent's Exhibit next in order.

(Thereupon, the document above referred to was marked as Respondent Boswell Company's Exhibit No. 8 for identification.)

(Testimony of Walter Winslow.)

Q. (By Mr. Painter) Now, Mr. Winslow, I want you to look at Respondent's Exhibit 8 for identification and look it over, and see if that is the list you had in mind?

A. (Interrupting) I can't read.

Q. You can't read? A. No.

Q. Is that your signature? A. That is.

Q. You see this other list, this other column here?

Mr. Mouritsen: Indicating which column?

Mr. Painter: The column on the left-hand side of the page.

The Witness: I don't know what it means, though. [1092]

Q. (By Mr. Painter) As a matter of fact, you realized that this was a preference you were indicating, did you not?

Mr. Mouritsen: May the witness be questioned as to whether he understands the word "preference?"

Trial Examiner Lindsay: Yes.

Do you know what the word "preference" means?

The Witness: No, I don't know that.

Trial Examiner Lindsay: If you have two particular suits of clothes that were being shown to you, and you liked one better than the other, and this is the one you like, that would be your preference. Does that clear it up?

The Witness: Yes.

Q. (By Mr. Painter) You understand, Mr. Winslow, that you were being asked to sign either

(Testimony of Walter Winslow.)

to work eight or twelve hours, isn't that correct?

A. Well, I figured if I didn't sign twelve hours I would have no job.

Mr. Painter: I move that the answer go out as not responsive.

Trial Examiner Lindsay: Yes.

Mr. Painter: Would you read—may I have the question read again, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.) [1093]

The Witness: Yes, I was asked which I wanted to sign.

Q. (By Mr. Painter) Can you read the signatures of the other men at the head of the list?

A. No.

Q. You can't read the signatures of any of the men on the list except yours? A. No.

Trial Examiner Lindsay: Well—(pause).

Mr. Clark: The answer is yes, I take it, Mr. Examiner.

Trial Examiner Lindsay: I imagine so.

Do you mean by that that you cannot read any of the other signatures except your own?

The Witness: That is what I mean.

Q. (By Mr. Painter) Then when you saw this list, you did not know whose name was on the head of the list, did you?

A. Nolan Butcher was standing by me. We

(Testimony of Walter Winslow.)

both signed at the same time. He signed it twelve hours, and I signed it twelve hours.

Q. Now, will you answer——

A. (Interrupting): He says—he called off two or three of the guys' names that was on there. I understood him that those three guys' names on there, the first ones that were signed.

Q. But you, yourself, when looking at the list, did not know whose names were on there at the head of the list, did you? A. No. [1094]

Q. You didn't know whose names were ahead of your name on the list, did you?

A. The best I recall, there wasn't over three or four or five names; the best I recall it. [1095]

Q. Well, let us count them. You can count down to your signature, can you not?

A. Yes. (Examining document) There were 7 before my name was signed.

Q. Seven on the second page, you mean, do you not? Did you count these on the first page?

A. Well, I never saw no first page.

Q. I see.

Now, as a matter of fact, Mr. Winslow, you knew, did you not—I will withdraw the question.

You were being paid by the hour, weren't you?

A. May I have that question again?

(The record referred to was read by the reporter, as set forth above.)

The Witness: I was.

Q. (By Mr. Painter) And if you worked 8

(Testimony of Walter Winslow.)

hours you would make less money than if you worked 12 hours, isn't that correct?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial; self-evident.

Trial Examiner Lindsay: Sustained.

Mr. Painter: I will offer this letter in evidence at this time, your Honor.

Trial Examiner Lindsay: May I see it?

(The document referred to was passed to the Trial Examiner.) [1096]

Mr. Mouritsen: To which offer I object, Mr. Examiner, on the ground it is incompetent, irrelevant and immaterial; does not tend to prove any of the issues in the case, and is not sufficiently identified. Suppose it were, what bearing would any possible proof would such document have upon the issues in this case as to whether or not the respondent is guilty of unfair labor practices?

Mr. Painter: Your Honor, there have been complaints here about the hours that this mill was operating, we feel that this is naturally relevant to the issues that have been brought up by the Board.

Trial Examiner Lindsay: Well, I will reserve the ruling on it. You may identify it further.

Q. (By Mr. Painter) Mr. Winslow, this is the list that you signed, is it not?

A. That one page is.

Q. The second page at least? Very well.

A. That is all I recall noticing.

Q. Mr. Winslow, at the time that you were laid

(Testimony of Walter Winslow.)

off in November, the mill actually closed, did it not? A. As far as I know, it did.

Q. And there were a good many men working in that mill that you had never seen at a union meeting, isn't that correct? A. Yes.

Q. And those men were laid off also, weren't they? [1097] A. For a short time.

Q. They were laid off at the same time you were, isn't that correct? A. Two or three of them.

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Painter: I will submit, your Honor.

Trial Examiner Lindsay: He may answer if he knows.

The Witness: Three of the guys working there with me were laid off the same day.

Q. (By Mr. Painter) And those three men were men that didn't belong to your union, isn't that correct?

A. Well, if they did, I didn't know it.

Mr. Clark: May I have that answer, your Honor?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Painter: That is all.

Mr. Mouritsen: Nothing further.

(Witness excused.)

Mr. Mouritsen: Call George Andrade.

E. J. ANDRADE

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows. [1098]

Direct Examination

Q. (By Mr. Mouritsen) What is your name?

A. E. J. Andrade, but I am known at the plant as George Andrade.

Q. When you first went to work for the company, what did you tell them your name was?

A. I told them my real name, E. J. Andrade.

Q. What is your first name?

A. It is pronounced Epifanio, E-p-i-f-a-n-i-o. It is kind of a hard name to remember.

Q. Now at that time did you have any conversation with Tom or Joe or Gordon Hammond regarding your name?

A. Well, I believe there was a conversation.

Q. And what did they say to you or what did you say to them about your name?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial; hearsay and not binding on these respondents.

Trial Examiner Lindsay: He may answer.

The Witness: I believe I wrote my name on a slip of paper and Mr. Gordon Hammond looked at it. He tried to pronounce it and couldn't and said something about from there on my name would be George, or something to that effect.

Q. (By Mr. Mouritsen) Then after that time

(Testimony of E. J. Andrade.)

did you receive your paychecks as George Andrade.

A. Yes, sir. [1099]

Q. And did you sign any company documents as George Andrade from that time on?

A. Yes.

Q. You endorsed the checks as George Andrade, is that correct? A. Yes.

Q. Now, when did you first start to work for the J. G. Boswell Company?

A. In 1933, September.

Q. What type of work did you start to do?

A. I was sewing cotton plant seed.

Q. What rate of pay did you receive at that time? A. 30 cents an hour.

Q. What hours? A. 12 hours.

Q. How long did you work for the company on that occasion?

A. Approximately about 4 months—I mean 4 weeks.

Q. And after that time, after the 4-week period, did you again work for the company?

A. Yes, I did.

Q. Beginning on or about what time?

A. On or about September of '34.

Q. What did you do on that occasion?

A. I was a gin helper.

Q. How long did you continue to work as a gin helper? [1100]

A. Until the latter part of December.

Q. Of what year? A. Of '34.

(Testimony of E. J. Andrade.)

Q. And have you worked for the company since that time, 1934? A. Yes.

Q. In general, what periods have you worked?

A. Well, I worked when the gins or the mill operated.

Q. And you were laid off in between those periods, is that correct? A. Yes. [1101]

Q. Now, during the year 1938, did you have any lay-offs? A. I did.

Q. When was your final lay-off during the year 1938? A. In November 18th.

Q. Now, prior to that time, when was your last lay-off?

A. Right after the mill closed down at approximately about the latter part of September.

Q. What type—before the mill shut down in the latter part of September, what type of work had you been doing? A. I was sewing sacks.

Q. In what part of the plant is that done?

A. In the oil mill.

Q. After the mill shut down in the latter part of September, 1938, when did you return next to work?

A. I believe it was on or about October 6th.

Q. And the year? A. 1938.

Q. And what type of work did you do—what type of work did you do when you returned in October of 1938?

A. I was clean-up man at the gins.

Q. And what were you then receiving per hour?

A. 40 cents.

(Testimony of E. J. Andrade.)

Q. What hours per day were you working?

A. I was working twelve hours.

Q. During the course of your employment with the J. G. Boswell [1102] Company did you become a member of any labor organization? A. I did.

Q. Of what organization?

A. The A. F. of L.

Q. Did you become a member of any Local of the A. F. of L.?

A. The Cotton Products and Grain Mill Workers' Union.

Q. What number? A. 21798.

Q. On what date did you become a member of the organization? A. September 2nd.

Q. What did you do on that date that indicated that you became a member?

A. I signed an application blank.

Q. And after that time, were you subsequently initiated into the Union? A. I was.

Q. Do you recall the approximate date on which that occurred? A. November 16th.

Q. What year? A. 1938.

Q. During the course of your employment with the J. G. Boswell Company, did you ever have any conversation with Joe Hammond regarding the Union? A. I did.

Q. Do you recall when that conversation occurred? [1103]

A. That was on or about July 15th.

Q. Of what year? A. 1938.

(Testimony of E. J. Andrade.)

Q. Where did the conversation take place?

A. In the warehouse by where I sewed sacks.

Q. Was anyone else present?

A. Not within hearing distance.

Q. Will you state what Mr. Joe Hammond said to you on that occasion, and what you said to Joe Hammond?

Mr. Painter: Objected to as hearsay and not binding on the Respondents, and no authority shown on behalf of Joe Hammond to speak for these Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: Joe Hammond asked me what I thought about the Union.

Q. (By Mr. Mouritsen) What was that first name? A. Joe Hammond.

Q. Continue.

A. I told him it was only for the working people. And he said that the Company was not going to have a Union there, that they would never recognize a Union, and if a Union was to come in, they would shut the mill down; and further told me if they shut the mill down, would the Union feed me, or something to that effect.

Q. Do you recall anything further of that conversation? [1104] A. Not at the present.

Q. During the course of your employment with the Boswell Company, did you ever have a conversation regarding the Union with Bill Robinson?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

(Testimony of E. J. Andrade.)

Trial Examiner Lindsay: He may answer.

The Witness: I did.

Q. (By Mr. Mouritsen): Do you recall the approximate date when you had such conversation?

A. About October 15th.

Q. Of what year? A. 1938.

Q. Where did the conversation take place?

A. In the cotton seed house.

Q. Was anyone else present other than yourself and Bill Robinson?

A. Not within hearing distance.

Q. Will you state what Bill Robinson said to you on that occasion, and what you said to Bill Robinson?

Mr. Painter: Objected to as hearsay, and no authority shown on behalf of Bill Robinson to speak for the Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: He asked me if I belonged to a Union, and I told him I did, I had belonged to it for some time. And [1105] he said from the appearance he had of other Unions, that a union wouldn't help the plant any and if you wanted to join a Union, to go where a Union was already established.

Q. (By Mr. Mouritsen): Do you recall any further conversation at that time?

A. No, I don't.

Q. I believe you stated that you last worked for the J. G. Boswell Company on November 18th, 1938; is that correct? A. Yes.

(Testimony of E. J. Andrade.)

Q. Did you work the entire day on that occasion?

A. No, I didn't.

Q. About how long—how many hours during that day did you work?

A. Approximately about four.

Q. Did anything then occur that caused you to cease working for the Company? A. It did.

Q. Will you state what occurred on that occasion that caused you to cease working for the Company?

A. About 10:00 o'clock Bill Robinson walked by where I was working——

Mr. Painter (Interrupting): Just a moment, your Honor. If this is going to call for a conversation, I object to it as hearsay and not binding on the Respondents.

Trial Examiner Lindsay: He may answer. [1106]

The Witness: About 10:00 o'clock Bill Robinson walked by where I was working and he told me they was going to have a meeting to see if they were going to have a union at the plant. [1107]

Q. (By Mr. Mouritsen): Did you attend a meeting? A. I did.

Q. Approximately how long after that conversation? A. Not longer than 5 or 10 minutes.

Q. Where was such a meeting held?

A. On the west side of No. 2 gin, between No. 2 gin and the warehouse.

Q. Did you go to the gin from your place of work?

(Testimony of E. J. Andrade.)

A. It was close by where I was working.

Q. Will you state what you observed and heard when you first went to this meeting?

Mr. Painter: Objected to as calling for hearsay and statements which couldn't possibly bind these respondents.

Trial Examiner Lindsay: He may answer.

The Witness: Well, as the crowd gathered there, somebody asked for—wanted to know what about the union.

Q. (By Mr. Mouritsen): Do you recall who that was?

A. No, I don't. It was just heard from the crowd. And somebody asked for the president.

Q. Do you recall who did that?

A. I believe it was Jack Ely.

Q. Continue.

Trial Examiner Lindsay: Excuse me a moment.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record. [1108]

The Witness: What was the question?

(The question referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: The original question was for you to state what you observed and heard while you attended this meeting; and your objection—I will stipulate that your objection may apply to the re-statement of the question.

Trial Examiner Lindsay: All right.

The Witness: I believe that after Jack Ely asked

(Testimony of E. J. Andrade.)

for the president somebody—Farr said that Mr. Spear was president. And then the crowd gathered around Lonnie Spear, and somebody asked him, “What about the union?”

And he tried to answer a few questions, but they kept asking him three or four questions at a time, and finally somebody in the crowd hollered, “Let’s throw them out. What are they waiting for?”

Q. (By Mr. Mouritsen): Do you recall who said that? A. No, I don’t.

Q. Now, continue.

A. At that time, why, there was three men closed in on Lonnie Spear, and they grabbed him and started away with him; and as they started by where I was standing I started for them, and at that time Herman Langford came up.

Q. Who is Herman Langford?

A. An employee of the J. G. Boswell Company. [1109-1110]

Q. He was an employee at that time, is that correct? A. Yes.

Q. Now, state what took place?

A. There was a little scuffle there and finally we walked into the office building, and while we were there—

Q. (Interrupting): Well, you say you walked into the office building. Whose office was that? Do you recall? A. Mr. Gordon Hammond’s.

Q. Is that across the road from the place where the original meeting took place?

(Testimony of E. J. Andrade.)

A. Yes, it is.

Q. Will you state what you saw and observed and heard while you were in Louie T. Robinson's office? [1111]

A. We were in Gordon Hammond's office.

Q. Gordon Hammond's office?

Mr. Painter: I object to any answer which calls for a time when Mr. Robinson was not there, as calling for hearsay and not binding on these Respondents.

Trial Examiner Lindsay: You may answer.

The Witness: He had been in Mr. Gordon Hammond's office approximately about ten minutes when Mr. Robinson came to the door and he said something about going back to work, that he would be out there and straighten the matter out.

Q. (By Mr. Mouritsen): Now, was Mr. Spear present in Gordon Hammond's office while you were there? A. Yes, he was.

Q. And were the three men who had taken him to that place also present?

A. They were right outside of the door.

Q. Did you observe what they did when Mr. Louis T. Robinson told them to go back to work?

A. Yes.

Q. What did they do?

A. They left the building.

Q. What did the—strike that.

Were there a number of other employees of the Company present in the office and in the hall adjoining the office? A. There were. [1112]

(Testimony of E. J. Andrade.)

Q. Did you observe what those employees did when Louis T. Robinson told them to go back to work? A. Yes.

Q. What did they do?

A. They left the building.

Q. At that time when Louis T. Robinson said to go back to work, what did you do?

A. I went back where I was working.

Q. And what did you do after you went back to—to work, what did you do?

A. The machinery started, and I sewed two sacks of cotton seed.

Q. What then occurred?

A. The machine stopped.

Q. And what did you then do?

A. I went into the building of the gin.

Q. What did you do after you went into the building?

A. I went into the building and saw Kelly Hammond and Burdine standing beside the main switch which runs Number 2 gin.

Q. Did you hear any conversation or statement at that time? A. No.

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

The Witness: I didn't, your Honor.

Trial Examiner Lindsay: Just a moment. Strike the ans- [1113] wer for the time being.

He may answer. Don't answer until I have ruled when an objection is made.

(Testimony of E. J. Andrade.)

Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: No, I didn't.

Q. (By Mr. Mouritsen): Did anything occur to you—did anything occur at that time that caused you to stop working for the Company or to leave the plant? A. Yes.

Q. Will you state what occurred at that time that caused you to leave the plant, or to stop working?

A. Right after I left the gin, I met Mr. Martin on the outside, and about that time Bill Robinson walked up to us.

Q. Did Mr. Robinson say something on that occasion? A. Yes, he did.

Q. Other than yourself and Martin and Robinson, was anyone else present? A. There was.

Q. Who else was present? A. Mr. Wingo.

Q. He was the man who just testified here the other day, is that correct?

A. That is correct. [1114]

Q. And was anyone else present?

A. R. K. Martin.

Q. Now, will you state what was said at that time that caused you to stop working for the Company?

Mr. Painter: Objected to as hearsay, calling for the conclusion of this witness, and not binding on these Respondents, no authorization for any of the parties to speak for the Respondents.

(Testimony of E. J. Andrade.)

Trial Examiner Lindsay: He may answer.

The Witness: Bill Robinson said there wasn't enough Union men to run the gins, and they had to run, and the non-Union boys would not work with us.

At that time Mr. Wingo asked him if that was an order, if he was giving that order as a foreman. And he said, "No," that was just a suggestion to avoid further trouble.

Q. (By Mr. Mouritsen): Do you recall anything further that was said at that time?

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: No, not at that time.

Q. (By Mr. Mouritsen): After that statement was made by Bill Robinson, what did you do?

A. We figured we were through there, so we picked up our things and went to Mr. Farr's residence.

Q. Well, you left the plant at that time? [1115]

A. Yes, we left the plant.

Q. Have you had any employment since November 18th, 1938? A. I have.

Q. Approximately how much money have you earned since that date?

A. Approximately \$60.00.

Q. Are you now employed? A. No.

Q. If the National Labor Relations Board should order your re-instatement with back pay, would you be willing to accept employment with the J. G. Boswell Company?

(Testimony of E. J. Andrade.)

A. I would under certain conditions.

Q. Under what conditions?

A. Recognition of our Union.

Mr. Clark: May I have that answer?

Trial Examiner Lindsay: Yes. Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen): What do you mean by "recognition?"

A. Well, to give us the right to belong to an organization.

Q. In other words, you would be willing to accept re-instatement if you were permitted to retain your membership in the Union here involved; is that correct?

Mr. Clark: I object to that as leading and suggestive, incompetent, irrelevant and immaterial. [1116]

Trial Examiner Lindsay: The answer may stand.

What was the answer?

The Witness: I would.

Mr. Mouritsen: You may inquire. [1117]

Cross-Examination

Q. (By Mr. Clark): Mr. Andrade, what have you been working at since November 18th?

A. I worked in a nursery in Los Angeles.

Q. And for how long, please?

A. Approximately three weeks.

(Testimony of E. J. Andrade.)

Q. And when was that with respect to the 18th of November, 1938?

A. I believe that was some time in April.

Q. Of this year? A. Of this year.

Q. And is that the only effort you have made to get employment?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

You may reframe the question.

Q. (By Mr. Clark): Have you made any effort to get employment aside from that?

A. I have.

Q. Is that here around Corcoran or elsewhere?

A. Elsewhere.

Q. I see.

Have you ever applied for work since November 18th, Mr. [1118] Andrade, at Boswell Company?

A. I haven't.

Q. And why not, please?

A. Because in other years when they needed us, they generally came after us. We were notified when to go back to work.

Q. I see. Earlier in 1938 you were laid off on several occasions, weren't you? A. I was.

Q. In other words, in 1938 you were laid off from the week ending March 17th up until around May 1st, weren't you? A. It is possible.

Q. Well, does that coincide with your recollection?

(Testimony of E. J. Andrade.)

A. I couldn't recall the exact dates.

Q. Was there a period toward the latter part of March of last year, that is 1938, and including the month of April, that you were laid off?

A. It could be possible.

Q. Do you think that is approximately correct?

A. Yes, it could be.

Q. All right. Now, what were you doing immediately prior to your lay-off on that occasion, that is, in the latter part of March of 1938?

A. I don't think I did anything.

Q. No, what were you doing at the Boswell Company? A. At the Boswell plant? [1119]

Q. Yes.

A. I don't recall whether I was sewing sacks or chasing lint, one of the two things. [1119(A)]

Q. All right.

When you resumed employment there in early May, if that is the approximate date when you did resume employment, did someone come after you to notify you that you had a job?

A. I think so.

Q. Do you remember who that was?

A. I don't recall just now.

Q. Do you have any actual recollection of that incident?

A. I remember the time, but I can't remember who came after me.

Q. I see.

Now, later on then, at the end of the week ending

(Testimony of E. J. Andrade.)

May 19th, that is, in the latter part of May of 1938, after you had worked about three weeks, you were again laid off, weren't you?

A. I can't recall now.

Q. Well, was there a second lay-off during the late spring or early summer of 1938?

A. I believe that the mill did——

Q. (Interrupting): Don't you recollect that you were laid off twice during the spring of 1938?

A. I don't remember.

Q. All right.

Were you—when you resumed employment at the Boswell plant around the 1st of May, 1938, that is, after your first [1120] lay-off, what job did they give you?

A. I believe I started working in the lint room.

Q. I see.

And for how long, if you remember, just roughly, did you continue working in the lint room before you were again laid off? A. I don't recall.

Q. Wasn't it about three weeks?

A. I could have been.

Q. All right.

Now, did you then resume your employment at the Boswell Company around the 1st of July of last year? A. Yes.

Q. And on that occasion do you remember whether you went to the plant and asked for work or whether they sent someone out for you?

A. I believe that I went to the plant that time.

Q. I see.

(Testimony of E. J. Andrade.)

And who did you see there at the plant about getting a job?

A. I don't remember exactly.

Q. Was it Gordon Hammond?

A. I don't believe so.

Q. Did you get a job on that occasion?

A. I did. [1121]

Q. And what were you put doing at that time?

A. I was chasing lint.

Q. Chasing lint again? A. Yes.

Q. Now, am I correct in stating, Mr. Andrade—
withdraw that.

Am I correct in stating that on the occasion of this employment which commenced around July 1st of 1938 you worked up until around the 1st of October or the last of September?

A. The last of September.

Q. The last of September.

And then were you again laid off? A. I was.

Q. Now, during that period, namely from about July 1st to the last of September were you employed at chasing lint all the time? A. No.

Q. Will you please tell us what jobs and what different things you did at the Boswell plant during that 3-month period?

A. I chased lint for just a little over a week and was then put to sewing sacks.

Q. Yes?

A. In the mill; and I sewed sacks for the remainder of the period. [1122]

(Testimony of E. J. Andrade.)

Q. All right.

Now, I think you told us on your direct examination that when you first started to work as Boswell's, you were paid 30 cents an hour?

A. That is correct.

Q. And somewhere along the line you were raised to 40 cents, is that right? A. That is right.

Q. Now, when you were re-employed around the first of July last year, was your wage 40 cents an hour? A. 35.

Q. 35.

And when was it, if ever, since that period of time; namely, from July 1st to the last of September that you were raised to 40 cents?

A. When I took the sack sewing job over.

Q. All right.

In other words, when you changed from chasing lint to sewing sacks, which I think you said was after the first two weeks of that re-employment—

A. (Interrupting): Some time during the first two weeks.

Q. All right. Then you were given the 40-cent scale; is that right? A. That is correct.

Q. Now, how long was it after your lay-off on that occasion, [1123] namely, the last of September of 1938, that you were again employed?

A. Some time about the 5th or 6th of October.

Q. And on that occasion, Mr. Andrade, did someone come out for you or did you apply for work at the plant?

(Testimony of E. J. Andrade.)

A. Well, I applied for work the day before, and, as near as I can recall, there wasn't anything to do.

Q. Yes.

A. And on the following day Tommy Hammond drove up to my home at noon and asked me to come to work.

Q. I see.

When you say "the day before," in fixing the time when you applied for work, you mean the day before the day when you actually did go back to work, is that right?

A. The day before I actually went to work.

Q. All right.

On that occasion you had, of your own volition, gone to the plant and applied? A. Yes, I did.

Q. All right.

Now, what were you put doing upon the occasion of that re-employment?

A. I was clean-up man in the gin.

Q. And for how long did you continue at that job, please?

A. Oh, there was no specific time on that. I just would [1124] clean up the gins at certain times—

Q. (Interrupting): I mean, over what periods of weeks?

A. Over what period? I couldn't recall that.

Q. Well, were you—did you continue to be clean-up man in the gins from early October when you were re-employed on the occasion just referred to, clear up to November 18th? A. No.

(Testimony of E. J. Andrade.)

Q. All right.

Now, can you fix for us the approximate time that you continued at that job before there was any change in your occupation?

A. Well, you see, the clean-up of the gins did not take all my entire time.

Q. I see.

What else did you do, please?

A. I unloaded the cotton and just helped out wherever there was anything to be done.

Q. In other words, did you do odd jobs around the plant? A. I did.

Q. Is that a fair description of it?

A. Yes, that would be fair enough.

Q. For how long did you continue at that during this last period of re-employment, namely, from early October up until November 18th?

A. Up until the 18th. [1125]

Q. Up' until the 18th? A. Yes.

Q. I see.

Now, upon that occasion, Mr. Andrade, commencing in early October of '38, what rate of pay did you receive? A. 40 cents.

Q. I see.

In other words, you simply continued at the 40-cent scale on which you had been put in July the time you went to the sack sewing job?

Mr. Mouritsen: Objected to as—

Mr. Clark (Interrupting): I am summing it up. May I have the answer?

(Testimony of E. J. Andrade.)

The Witness: That is correct.

Mr. Clark: May we have a recess at this time, Mr. Examiner? It is 11:00 o'clock.

Trial Examiner Lindsay: Yes. A 10-minute.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

[1126]

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Shall I proceed, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark): Now, Mr. Andrade, when was it that you signed your application to join this Union?

A. I believe it was on September 2nd.

Q. Of 1938? A. 1938.

Q. When was it, if you know—withdraw that.

Did you ever talk to Mr. Gordon Hammond about having joined the Union?

A. Not that I can recall.

Q. Did you ever talk to Mr. Louie Robinson about your having joined the Union?

A. I don't think so.

Q. After September 2nd, did you solicit certain of the employees at Boswell's to join this Union?

A. I did.

Q. And did you obtain signed applications from them? A. I did.

Q. Amongst those employees whom you solicited

(Testimony of E. J. Andrade.)

and signed up, if we can use that term, was there a Mr. Ignacio Galvan? A. There was.

Q. And was there also a Mr. A. Galvan?

A. There was. [1127]

Q. And Lawrence Galvan? A. No.

Q. Pete Galvan? A. No.

Q. Manuel Escabedo? A. No.

Q. Do you know whether or not any of these whom I have just named and which you answered No did, in fact, become members of the Union?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: Well, I think it is entirely material, Mr. Examiner, upon the question of the claimed discrimination on the part of this employer against persons who joined this Union; preliminary to showing that these men are employed right now and have been all the time.

Trial Examiner Lindsay: May I have that question?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: If he hasn't the question in mind, I will reframe it very easily.

Trial Examiner Lindsay: Yes. Sustained.

Mr. Clark: On the ground of materiality, Mr. Examiner?

Trial Examiner Lindsay: You may proceed, Mr. Clark.

Mr. Clark: Very well.

Q. Let me ask you then, Mr. Andrade, whether

(Testimony of E. J. Andrade.)

or not Pete [1128] Galvan ever, in fact, did become a member of your Union?

A. I believe he signed application.

Q. Yes.

And how about Manuel Escabedo?

A. The same refers to him.

Q. How about A. Galvan?

A. I signed him.

Q. How about Lawrence Galvan?

A. I believe he signed application.

Q. You think he signed an application, too?

A. Yes.

Q. Now, did you succeed in getting any other employees in Boswell's to sign applications beyond those you have named for us? A. No.

Q. All right.

Now, you didn't make any secret of your activities in that regard after September 2nd, did you?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I will withdraw that.

Q. Did you approach these men during working hours at the plant? A. I did.

Q. And you didn't ask them not to tell anybody that you were signing them up, did you? [1129]

A. No.

Q. In other words, you simply looked on that as one of your rights, is that right? A. Right.

Mr. Mouritsen: Objected to as immaterial.

Q. (By Mr. Clark): Now, directing your atten-

(Testimony of E. J. Andrade.)

tion to the first week in October, 1938, and to the time that you were laid off for a few days in there, did you hear that Mr. Prior had a conversation with Mr. Gordon Hammond concerning your re-employment? A. I did.

Q. And do you know whether or not such a conversation in fact took place? Withdraw that.

Did Mr. Prior report to you the result of that conversation? A. Yes.

Q. Now, what did he say in that regard?

A. The only thing that he told me, as best I remember, was to apply for a job with Mr. Gordon Hammond.

Q. I see.

Well, did Mr. Prior in effect tell you, Mr. Andrade, that he had informed Gordon Hammond that you were a Union member? A. I think he did.

Q. So that as early as the first part of October, 1938, Mr. Gordon Hammond did know that you had joined the Union, didn't [1130] he?

A. To the best of my knowledge, he did.

Q. You never at any time made any secret of your membership?

Mr. Mouritsen: Objected to as vague and indefinite.

Q. (By Mr. Clark): Well, you never at any time tried to keep the fact that you had joined the Union from becoming known to the Company or other employees, did you? A. That is right.

Q. In other words, you didn't try to keep it from becoming known? A. That is right.

(Testimony of E. J. Andrade.)

Q. All right.

Now, I understand, Mr. Andrade, that you never had any talk yourself with either Mr. Gordon Hammond or Mr. Louie Robinson with respect to your having joined this Union? A. No, I didn't.

Q. Let me direct your attention to a meeting or a conversation which took place in the middle of January, 1939, the date established in this record being January 17th, at which Mr. Louie Robinson was present and I believe you were present, and the last witness, Mr. Winslow, was present, and also an investigator from the National Labor Relations Board.

Do you remember—

A. (Interrupting): I do.

Q. (Continuing): —that occasion? [1131]

Do you remember that Mr. Lonnie Spear was also present at that time? A. I do.

Q. And am I correct in stating that at that conversation, Mr. Spear gave his version of what had happened on the morning of November 18th?

A. Right.

Q. Now, did you hear any conversation at that time between Mr. Louie Robinson and Walter Winslow? A. I did.

Q. Just a minute—regarding Walter Winslow having taken orders from Tommy Hammond?

A. I did.

Q. All right.

Now, will you please tell us what that conversa-

(Testimony of E. J. Andrade.)

tion was, as nearly as you can recollect it, just the substance of it, don't you see?

A. Yes, sir.

Well, I believe Mr. Louie Robinson asked him if Mr. Tom Hammond gave him an order that he knew was wrong would he carry it out, and Mr. Winslow answered that he would.

Q. Now, may I interrupt you there a minute.

Do you remember how that conversation or those remarks between Mr. Louie Robinson and Walter Winslow came about? Do you remember what the subject was they were discussing? [1132]

A. I believe Mr. Maurice—or whatever his name is—

Q. (Interrupting): You mean Mr. Howard?

A. Howard, rather, made some remark about the men obeying orders from Mr. Tom Hammond.

Q. I see.

A. And then Mr. Louie Robinson made the remark to Mr. Winslow, and Mr. Winslow answered him.

Q. Now, let me have that remark again, if you will?

A. I think he asked him if Mr. Tom Hammond gave him an order that he knew was wrong, would he go ahead and carry it out. [1133].

Q. Yes?

A. And Mr. Winslow said that he would.

Q. Was there any further conversation on that subject?

A. I believe Mr. Winslow stated that on other

(Testimony of E. J. Andrade.)

occasions when he disobeyed an order Mr. Gordon Hammond told him that if he wanted to continue working there, he would have to obey the orders of his foremen.

Q. Were any further statements made by Mr. Louie Robinson in that connection?

A. I think he said something, he couldn't use him any more, or wouldn't hire him any more, something to that effect.

Q. Did he say why he wouldn't hire him any more? A. No, he didn't.

Q. Well, did you understand that it was in connection with Mr. Winslow's answer to the first question having to do with the wrong order?

Mr. Mouritsen: I object to the question—

Mr. Clark (Interrupting): I will withdraw it.

Q. During that conversation, Mr. Andrade, did Mr. Louie Robinson in response to any statement made about Tommy Hammond's authority, deny that he had the right to interfere with your men, with you men joining the union?

Mr. Mouritsen: May I have that question read? It is not very clear to me, Mr. Examiner.

Mr. Clark: Let us have it read, then. [1134]

Trial Examiner Lindsay: Yes. Read it, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Mouritsen: I object to that as very vague and indefinite and confusing.

Mr. Clark: I will submit it. If the witness understands, I think I am entitled to an answer.

(Testimony of E. J. Andrade.)

Trial Examiner Lindsay: Do you fully understand it?

The Witness: No.

Mr. Clark: Very well. I will reframe it.

Q. During that conversation did Mr. Louie Robinson say anything about the right of any of you men to join the union if you wanted to?

A. Not that I recall.

Q. Did he say anything about Mr. Tommy Hammond having authority to tell you not to or to tell you that the company was not in favor of your doing it?

A. I don't believe he mentioned that, to my best recollection.

Q. What did you understand that this exchange of remarks between Mr. Walter Winslow and Mr. Louie Robinson was about?

A. Well, to the best of my knowledge, it was just about the subject they were talking about.

Q. Wasn't it about Mr. Tommy Hammond's authority? Isn't that the way you understood it? [1135]

A. No, not to me.

Q. Well, will you give us, as best you can remember, your understanding of what that conversation was about, what it meant to you?

A. Well, I think—if I understood it clearly—Tommy Hammond was recognized as a foreman and, therefore, any orders he gave you were to be carried out.

Q. Well, is that what you understood Mr. Louie

(Testimony of E. J. Andrade.)

Robinson to be saying when he asked Walter Winslow whether he would carry out an order by Tommy Hammond that he knew to be wrong?

Mr. Mouritsen: I object to that as very vague.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

Mr. Clark: May I have the question read back?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I sustained the objection to the question so you don't answer.

Mr. Clark: Very well.

Q. Is that what you understood Mr. Louie Robinson to mean when he asked Walter Winslow if he, Winslow, would carry out an order by Tommy Hammond that he knew to be wrong?

Mr. Mouritsen: I object to that also as vague and con- [1136] fusing.

Trial Examiner Lindsay: Sustained.

Mr. Clark: May I have some indication from the bench, your Honor, as to what you consider to be the defect in the question?

Trial Examiner Lindsay: Now you may proceed and examine this witness. I have sustained the objection to the question, Mr. Attorney.

Mr. Clark: May I ask what the ground is?

Trial Examiner Lindsay: You will proceed with your examination.

Mr. Clark: Very well.

(Testimony of E. J. Andrade.)

Q. During that conversation, Mr. Andrade, did you hear Mr. Howard, the investigator for the National Labor Relations Board, make any remark about a gun? A. I did.

Q. Will you please let us have that?

Mr. Mouritsen: This is objected to as incompetent, irrelevant and immaterial; and doesn't tend to prove or disprove the issues in the matter.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Will you please state whether or not during this conversation, Mr. Howard, the investigator for the National Labor Relations Board, stated, in substance or [1137] effect, to the persons present, that in his opinion Mr. Lonnie Spear would have had a perfect right to shoot the people who had laid hold of him on the morning of the 18th?

Mr. Mouritsen: It that question finished?

Mr. Clark: Yes.

Mr. Mouritsen: I object to it upon the ground it is incompetent, irrelevant and immaterial——

Mr. Clark (Interrupting): Submit it.

Mr. Mouritsen (Continuing): ——not tending to prove or disprove the issues.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Were you present at any time when Mr. Howard——withdraw that.

Did Mr. Howard ever to your knowledge attempt to solicit applications for membership in your union

(Testimony of E. J. Andrade.)

among the Boswell employees while he was here on that occasion?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Let me direct your attention, Mr. Andrade, to the events immediately after November 18, 1938, and I will ask you particularly whether you were present at a meeting at the main office of the company on the following morning, that is November 19th? [1138] A. I wasn't.

Q. I see. Now, were you ever present at any meeting between the members of your union and anyone representing the company, that is, Boswell's, after November 19th, except the one on January 17th that we have been talking about? A. No.

Q. I take it then that you were not present at any meeting on November 28th between Mr. Prior and Mr. Louie Robinson? A. I wasn't.

Q. Did Mr. Prior ever make any report to you of a meeting which he had with Mr. Louie Robinson on or about November 28th of 1938 at which the subject of the re-employment of the members of the union was discussed? A. I believe he did.

Q. And in making that report to you, Mr. Andrade, did Mr. Prior tell you that Mr. Robinson had asked him for a list of the men who were members of the union, for the purpose of employing them? A. I don't recall that.

(Testimony of E. J. Andrade.)

Q. Did Mr. Prior, in making that report to you, tell you that Mr. Robinson had stated during that conversation that he could use Lonnie Spear from time to time? A. I think he did. [1139]

Q. And did Mr. Prior then state to you in making the report that we are talking about, that he then mentioned the name of Mr. Martin to Mr. Robinson? A. I think he did.

Q. And that Mr. Robinson had told him that Mr. Martin's gin was not operating and, therefore, the Company could not re-employ Mr. Martin at that time?

A. I don't think he said that just that way.

Q. How did he say that, please?

A. I believe the nearest Mr. Prior's statement was when he mentioned Mr. Martin's name, Mr. Robinson laid his pencil or pen or whatever he was writing with, down, and they spoke to him about the rest of the members.

Q. What did Mr. Prior say to you that Mr. Robinson said about the rest of them?

A. I don't recall.

Q. And did Mr. Prior tell you what he, Prior, said to Mr. Robinson regarding Martin?

A. I think he didn't say anything about Martin, but he said that if Martin and some of the others were not put to work, they were just wasting each other's time, or something to that effect.

Q. All right.

Now, was that report made to you by Mr. Prior in a Union meeting? [1140]

(Testimony of E. J. Andrade.)

A. No, just a gathering.

Q. All right. And did you authorize Mr. Prior to make that statement to Mr. Robinson on your behalf?

A. I think we had a gathering there in the morning, and Mr. Farr and Mr. Martin and Mr. Spear decided that—well, after the gathering was there, they were asked to go up there and have a talk with the representative of the Boswell Company and see if they could come to some agreement.

Q. Yes.

That was, you think, about the morning of November 28th?

A. Something around that date.

Q. And as far as you understand, this committee you have named went up to talk to the representative of the company, is that right?

A. That is right.

Q. Then after they had—then, some time subsequently or afterwards, Mr. Prior made the report you have been telling us about, is that correct?

A. Yes, sir.

Q. Now, the thing I am asking you about is this about hearing that report, Mr. Andrade: Did you personally subscribe to it?

A. No, I didn't. What was that?

Mr. Clark: I withdraw the question.

Q. Did you agree to what Mr. Prior had said? [1141]

Was that all right with you?

(Testimony of E. J. Andrade.)

A. I don't get the meaning of that question.

Q. When Mr. Prior reported to you what he had done at the meeting with the Company representative, did that meet with your approval?

A. I still don't get what you mean.

Q. Well, I understood that after this committee went up to see the Company representatives, Mr. Prior came back and in a gathering of the Union members, made a report of what had happened; is that right?

A. Yes, he did.

Q. All right.

And in that report he stated these things about Martin, and in particular that unless Martin and some of the others were taken back, it wasn't any use to talk about settlement, isn't that right?

A. They didn't get to talk about any of the others.

Q. Did you ever find out why they didn't get to talk about any of the others?

A. No, I didn't.

Q. Did you ask Mr. Prior why they didn't talk about yourself, for instance?

A. No, I didn't.

Q. Well, wasn't that of interest to you?

A. It was. [1142]

Q. Why didn't you make some inquiry about it of him?

A. I didn't think about it at the time.

Q. I see.

The thing I want to know is this: Was Mr. Prior

(Testimony of E. J. Andrade.)

representing you up there at the Company plant that morning?

A. He was representing the whole group, not only one.

Q. I understand that. But so far as you personally were concerned, you approved his going there for you, didn't you? A. Yes.

Q. And when he came back and told you what had happened, were you satisfied with that?

A. No, I wasn't.

Q. Well, in what respects weren't you satisfied?

A. Well, they didn't accomplish anything.

Q. Well, did you approve of the way Mr. Prior had handled it?

A. I don't think Mr. Prior was at fault.

Q. I see.

But I am talking about how you felt right then, Mr. Andrade?

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Did you say to Mr. Prior in substance or effect at that time, Mr. Andrade, "Well, was my name mentioned?"

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I will submit it. [1143]

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Did you make any inquiry of Mr. Prior on that occasion concerning whether or not you had been offered a job?

(Testimony of E. J. Andrade.)

A. I didn't.

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: He has answered it again.

Q. (By Mr. Clark) At any rate, you didn't go back to the Company on your own and ask them for a job, did you? A. No.

Q. As a matter of fact, didn't you leave that part of the matter to Mr. Prior, that is, the getting you of a job back? A. Not entirely.

Q. Well, you didn't do anything about it yourself, did you? A. No.

Q. And so instead of any personal contact with the Company, you depended on Prior or whatever other Union representatives might be appointed to deal with the Company, isn't that correct?

A. No.

Q. Well, what did you do?

A. I didn't do much of anything.

Q. Well, what do you mean by answering the question "No," then?

A. Well, if the Company had wanted to get together with us, [1144] they could have notified us one way or the other through our representatives, or personally.

Q. Was that the attitude you took, then?

A. Yes.

Q. All right.

On your direct examination, Mr. Andrade, you

(Testimony of E. J. Andrade.)

said that you wouldn't be willing to go back to work at Boswell's if conditions were as they were on November 18th.

Do you recall that statement?

A. Yes, I do.

Q. And I think you explained that by saying that you insisted upon the right—strike that.

I think you explained your statement in that regard by saying that you would insist your Union be recognized, is that true? A. I did.

Q. And did you further state on your direct examination that by that you meant that you would insist upon having the right to belong to this Union?

A. Yes.

Q. Now, will you please tell me whether, at any time whatsoever during the period of your employment at Boswell's, either Mr. Gordon Hammond or Mr. Louie Robinson ever stated to you in substance or effect that you didn't have that right?

A. Not to my knowledge. [1145]

Q. I am correct in stating, am I not, that at all times, so far as the Company was concerned, represented by Mr. Louis Robinson or Mr. Gordon Hammond, there was no interference at all with your joining the Union? A. Not correct.

Q. In what respect is that not correct?

A. I said, not direct.

Q. Not direct? A. Yes.

Mr. Clark: I ask that that go out, may it please the Examiner, and the question be answered and an explanation given if Mr. Andrade has one.

(Testimony of E. J. Andrade.)

May I have the question read?

Trial Examiner Lindsay: You may have it read; and the answer may stand.

Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: Not direct.

Q. (By Mr. Clark) What is the answer?

A. Not direct.

Q. What indirect interference, so far as your understanding is concerned, Mr. Andrade, was there?

A. There was rumors around there that the Union was not wanted at the plant. [1146]

Q. And did those rumors pass from mouth to mouth among the employees? A. Yes.

Q. And isn't it that which you are talking about when you say that there was an indirect interference with your joining the Union?

A. That is right.

Q. All right.

You never heard either Mr. Gordon Hammond or Mr. Louie Robinson say anything at all about that?

A. No.

Q. Now, after November 18th of 1938, you continued to receive your pay for a period of time, didn't you? A. I did.

Q. And am I correct in stating that that was for the weeks ending December 24th—November 24th and December 1st? A. That is right.

(Testimony of E. J. Andrade.)

Q. Two checks, in other words? A. Yes.

Q. Now, you didn't do any work for the amounts covered by those two checks except such time as you worked on November 18th, isn't that right?

A. That is right.

Q. And did you accept and cash the checks?

A. I did. [1147]

Q. Did you ever ask either Mr. Robinson or Mr. Gordon Hammond why you were being paid?

A. No, I didn't.

Q. Did you ever have any conversation with anyone else concerning the reason for your being given these checks? A. Mr. Farr.

Q. What was the answer?

A. I had a conversation about that with Mr. Farr.

Q. All right.

And what did you understand, Mr. Andrade, to be the reason for your being paid these checks?

A. On November 18th, Mr. Farr called Mr. Robinson and right after Mr. Farr made the phone call, he came into his home and told us that Mr. Robinson had said to rest easy, that our pay would go on until this matter was settled; and that was the understanding I had. [1148]

Q. I see.

And so when the time came to collect the checks, did you go to the plant to get them?

A. I did.

(Testimony of E. J. Andrade.)

Q. Let us take the check for the week ending November 24th. Who, if anyone, did you see at the plant when you went to call for the check?

A. I saw Mr. Gordon Hammond.

Q. Did you have a conversation with him at that time? A. No.

Q. Did you ask him for your check?

A. I didn't.

Q. Did he hand it to you?

A. I got it from the clerk that hands them out.

Q. I see.

I understand you to say you saw Mr. Gordon Hammond. A. I did.

Q. But you had no conversation with him?

A. No.

Q. Is that all that happened on the occasion of that visit to the plant? A. Yes.

Q. Now, how about the next week, that is, the week of December 1st? Did you call at the plant, or was the check sent to you? [1149]

A. I called at the plant.

Q. And whom did you see, if anyone, then?

A. The clerk.

Q. And was there any conversation — strike that.

You were simply handed your check then?

A. That is right.

Q. And you went away?

A. That is correct.

Q. Now, had Mr. Prior reported to you the results of the November 28th conversation before you got this last check the December 1st check?

(Testimony of E. J. Andrade.)

A. I think he had. I am not sure.

Q. Do you know whether or not any of the other members of your union or the union, I mean, are still employed at the Boswell plant?

A. I believe there is.

Q. Do you know who they are?

A. Ignacio—his real name is Ignacio; but they call him Nacio, and Andrew Galvan.

Q. How about Manuel Escobade?

A. I am not certain he is working.

Q. Do you know whether he worked there after November 18th?

A. Yes, he worked there after that.

Q. How about Pete Galvan?

A. I believe the same. [1150]

Q. Lawrence Galvan? A. The same.

Q. And how about Joe Briley?

A. I think he has worked for them since.

Q. And he was a member of the union, too, wasn't he? A. I think he was.

Q. And now some of those men you say are not working at the present time, but did work after November 18th, is that right? A. I think they did.

Mr. Clark: That is all.

Redirect Examination

Q. (By Mr. Mouritsen) Now, Mr. Andrade, I believe you stated upon your cross examination that you signed up Nacio Galvan and one other fellow. A. Andrew Galvan.

Q. Andrew Galvan.

(Testimony of E. J. Andrade.)

Do you recall the approximate date when you did that?

A. Let's see. I think it was some time in July.

Mr. Clark: That is 1938, I take it?

The Witness: Wait a minute.

Q. (By Mr. Mouritsen) After that time did Nacio Galvan attend some of the meetings of this union? A. No.

Q. Did you ever have a conversation with him regarding the [1151] reason why he didn't attend the union? A. I did.

Q. Do you recall when that conversation took place?

A. I believe it was some time in October.

Q. Of what year? A. 1938.

Q. And where did the conversation take place?

A. At the Boswell camp.

Q. And was anyone else present other than yourself and Nacio Galvan? A. There was.

Q. Who else?

A. Mr. Prior and Mr. R. K. Martin.

Q. Now, will you state what conversation took place at the time between yourself and Nacio Galvan?

Mr. Clark: Objected to as hearsay; incompetent, irrelevant and immaterial, not binding on any of the respondents in this proceeding, and no authority being shown in Mr. Galvan to speak for the respondent Boswell Company with respect to any matter under investigation here.

(Testimony of E. J. Andrade.)

Trial Examiner Lindsay: He may answer.

The Witness: I asked Mr. Galvan why he didn't attend our meetings, and he answered that he had been told by Mr. Gordon Hammond he would lose his job if he had anything to do with the union. [1152]

Q. (By Mr. Mouritsen) Did you say anything further at that time? A. I did.

Q. What did you say?

A. I asked him if anybody else had said anything to him about the union.

Q. Did he make a reply? A. Yes.

Q. What did he say?

A. He said Tom and Joe Hammond had both warned him to keep away.

Mr. Clark: The same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: He said Tom and Joe Hammond had both warned him to keep away from the union bunch or lose his job.

Q. (By Mr. Mouritsen) Do you recall any further conversation that took place at that time?

A. Not at that time.

Q. Did Andrew—what was the other Galvan fellow's first name? A. Andrew.

Q. Did Andrew Galvan ever attend any union meeting after you had signed him up?

A. No, he didn't. [1153]

Q. Did Manuel Escobade ever attend any union meetings at any time? A. No, he didn't.

(Testimony of E. J. Andrade.)

Q. Did Peter Galvan? A. No.

Q. Did Lawrence Galvan ever attend any union meetings? A. No, he didn't.

Q. Have you since the picketing was established at the plant, have you engaged in picketing the plant? A. I have.

Q. Have you done that on a number of occasions? A. Yes.

Mr. Mouritsen: You may inquire.

Recross Examination

Q. (By Mr. Clark) Did you receive any strike benefits from your union?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Mr. Clark: No further questions.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Mouritsen: Call Mr. Boyd Ely.

Mr. McTernan will conduct the examination of this witness, [1154] Mr. Examiner.

BOYD L. ELY

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

(Testimony of Boyd L. Ely.)

Direct Examination

Q. (By Mr. McTernan) Will you state your name, please? A. B. L. Ely.

Q. And your address?

A. Box 52, Corcoran.

Q. Mr. Ely, have you ever been employed by the J. G. Boswell Company? A. I have.

Q. When were you first employed by the company?

A. About July, between the 22nd and 24th.

Q. And what sort of work did you do for the company? A. I worked as a hay cutter.

Q. What was your rate of pay?

A. 30 cents per hour.

Q. How long did that work continue?

A. Well, up until about the latter part of February of 1937, I believe.

Q. And then you were laid off? A. No.

Q. What happened then? [1155]

A. I was transferred from the hay cutter to the mill.

Q. And how long did you work in the mill?

A. Well, up until the latter part of May, I believe.

Mr. Clark: What year, please?

The Witness: '37.

Q. (By Mr. McTernan) And what was your rate of pay during that period?

A. Well, just a short time before I left as a

(Testimony of Boyd L. Ely.)

hay cutter, it was raised to 35 cents an hour.

Q. And then did you leave the employ of the J. G. Boswell Company? A. Yes.

Q. For how long?

A. Well, for about 60 or 70 days.

Q. Were you laid off at the time?

A. Well, no; I was not.

Q. How did you happen to leave then?

A. Well, I had a job in the grain harvest and it looked like there wouldn't be too much work at the time and I seen Mr. Hammond and talked it over with him and told him I had a job I could go to and would give someone else a chance to stay awhile while I was working, if I could make that job for the harvest. And I told—and he told me to go ahead and when I got done to come back and see him.

Q. Did you do that, come back and see him? [1156] A. Yes.

Q. Did you start right to work right after that?

A. Not right at that time.

Q. When did you start back to work for the Boswell Company?

A. I started back to work in September of 1937.

Q. And how long did you work for the company starting that time?

A. Well, about March, on or about March 24th of '38.

Q. And what type of work were you employed at during that period? A. Sack sewing.

(Testimony of Boyd L. Ely.)

Q. And what was your rate of pay?

A. 40 cents an hour, I believe, at that time.

Q. Well, when did you next go back to work for the Boswell Company? A. After——

Trial Examiner Lindsay (Interrupting): Do you understand the question?

The Witness: Not quite.

Q. (By Mr. McTernan) I believe you testified you worked up until March of 1938.

Mr. Clark: March 24th, he said, about.

Trial Examiner Lindsay: Yes, on or about.

Mr. Clark: 1938.

The Witness: Well, about some time in April, the first [1157] part of April, somewhere as I remember.

Q. (By Mr. McTernan) Of the same year?

A. Yes.

Q. And then did you continue working for the Boswell Company?

A. Well, up until about some time in May I was running pumps out in the lake at that time I believe. Then I came back and sewed sacks for a few days as best I remember.

Q. And when was that?

A. That was some time in May of '38.

Q. Then you left the employ of the company?

A. Yes.

Q. And when did you return, if at all?

A. July 1st, 1938.

Q. And did you continue to work after that for any length of time?

(Testimony of Boyd L. Ely.)

A. Up until the latter part of September, '38.

Q. And then did you ever go back again?

A. Yes.

Q. When was that? A. In October.

Q. And how long did you work then?

A. Until around or about November 14th, '38.

Q. And what type of work were you employed at during that period? [1158] A. Sewing sacks.

Q. What was your rate of pay?

A. At that time 45 cents per hour.

Q. Who laid you off on November 14th?

A. Joe Hammond.

Q. Did he make any statement to you concerning your lay-off at that time?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: No, I didn't know anything about the layoff. I wasn't expecting it. I just went down to go to work on the night shift and when I got there they shut down. There was nothing doing.

Q. (By Mr. McTernan) Did you ask him about it? A. I did.

Q. What did he say about that?

Mr. Clark: Objected to as hearsay.

Trial Examiner Lindsay: He may answer.

The Witness: He didn't say much about it. I couldn't get any understanding about it. He turned and walked off.

Mr. Clark: I object to "I couldn't get any

(Testimony of Boyd L. Ely.)

understanding about it" as a conclusion of the witness.

Trial Examiner Lindsay: Yes. He may tell what he did or what was said. It may go out. [1159]

The Witness: I asked him what was wrong and he said he didn't know; and he walked off.

Mr. Clark: May I have the date?

Trial Examiner Lindsay: I believe he testified November 14th, is that right?

The Witness: Yes.

Q. (By Mr. McTernan) Have you ever applied for work since that time to the Boswell Company?

A. No—yes, if I may make the correction.

Q. Did you get any work from them on that occasion? A. No.

Q. Now, Mr. Ely, around July 1938 did you ever have a conversation with any fellow employees of the Boswell plant concerning a union?

A. A little, not very much.

Q. Well, with whom did you have any conversation?

A. A fellow by the name of Butcher and White.

Q. Are they employees of the Boswell Company?

A. Yes.

Q. Was anybody else present at that time?

A. Not at that time.

Q. What did you say to them and what did they say to you?

(Testimony of Boyd L. Ely.)

Mr. Clark: Objected to as hearsay, not binding upon any of the respondents.

Trial Examiner Lindsay: He may answer. [1160]

The Witness: Well, I just made a remark to them I heard there was going to be a union meeting that night, and just—I didn't mean anything by it, —something to talk about, I guess—I made a remark, I believe I would go up that night and join the union. I don't remember just what either one of them said, but that was about all that was said. We just dropped it and went on as we was.

Mr. McTernan: All right.

Q. Did you have any conversation with Mr. Tom Hammond around that time?

A. A little the next morning.

Q. The next morning.

Where was that held?

A. Well, I was just entering the main gate, the gate that goes in by the machine shop at the Boswell plant, a few minutes before 6:00 o'clock before I was to go to work. As I entered the gate——

Mr. Clark (Interrupting) Just a minute. May it please the Examiner, I don't think it is responsive and if this is going to result in a conversation, I want an objection on the ground of hearsay to be in at this time.

Mr. McTernan: I will bring it up to that, then.

Q. Was anyone else present at that time?

A. No.

Q. Now, will you state what you said to Mr. Tom

(Testimony of Boyd L. Ely.)

Hammond and [1161] what Mr. Tom Hammond said to you?

Mr. Clark: Objected to on the ground it calls for hearsay.

Trial Examiner Lindsay: He may answer.

The Witness: Well, Mr. Tom Hammond was just fixing to enter the machine shop. He seen me coming in the gate and turned around and come over to where I was at. He asked me if I joined the union last night. I told him no, I didn't, I didn't even go, didn't have any intention of going.

Q. (By Mr. McTernan) Is that all that he said?

A. Well, he said——

Mr. Clark (Interrupting): Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: He said it was a no good bunch trying to run somebody else's business.

Q. (By Mr. McTernan) Is that all that was said?

A. That is about all that was said at the time.

Q. Now, in October of 1938 did you ever have any conversation with any of your fellow employees of the Boswell plant concerning the union?

A. A short time, yes.

Q. With whom did that conversation take place?

A. Clyde Sitton.

Q. Who is Clyde Sitton?

A. Well, I understand he is a nephew to Gordon Hammond—— [1162]

(Testimony of Boyd L. Ely.)

Mr. Clark (Interrupting): I move, may it please your Honor, that that go out as calling for a conclusion of the witness, what he understood; hearsay.

Trial Examiner Lindsay: It may remain.

Q. (By Mr. McTernan) Was he an employee of the Boswell Company? A. Yes.

Q. Where was this conversation held?

A. In the machine shop of J. G. Boswell Company.

Q. Was anyone else present?

A. Yes. There was several in the building, but none within hearing distance. The machinery was running, too.

Q. Will you state what Mr. Clyde Sitton said to you and what you said to Mr. Clyde Sitton?

Mr. Clark: Objected to upon the ground of hearsay, your Honor; also incompetent, irrelevant and immaterial, no authority shown or established from Boswell Company to Mr. Sitton to speak for it with regard to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: We was just talking like we generally do when we go in there, something said about the union. He said he believed the union was all right but it would never work down there, that if the union come in, they had orders to shut the place down, lock the gates, and let it lay. [1163]

Q. (By Mr. McTernan) Was anything further said at this meeting with Mr. Sitton?

(Testimony of Boyd L. Ely.)

A. I don't believe there was about the union.

Q. Are you a member, Mr. Ely, of the union here involved? A. I am.

Q. When did you join? When did you sign application to join that union?

A. September 5, 1938. [1164]

Q. And did you attend Union meetings after that time? A. Yes, sometime later.

Q. Did you attend any Union meetings in the month of November, 1938? A. I did.

Q. How many did you attend in the month of November, do you know?

A. Well, I don't know for sure.

Q. Do you remember when you attended the first meeting in November?

A. The first meeting—(pause)—I am not so sure about the date.

Q. Was that before you were laid off on November 14th?

A. Yes. I was at some meeting before I was laid off. The exact date I couldn't recall.

Q. Well, did you attend the Union meeting in November at which the charter was installed?

A. It seems that I might have. I don't remember for sure. If it wasn't at that time, it was a short time afterwards.

Q. Well, you say attended a meeting a short time after the charter was installed?

A. About November the 11th.

Q. You did attend a meeting about November 11th?

(Testimony of Boyd L. Ely.)

A. A gathering or a meeting, I don't know which they called it. [1165]

Q. Where was this gathering or meeting held?

E. At either O. L. Farr's residence or Mr. Spear's.

Q. Do you know—can you give us the name of any people present at that meeting?

A. Well, I can give you some of them.

Q. Give us as many as you can?

A. O. L. Farr, I believe; L. A. Spear; E. C. Powell, I believe L. E. Ely. There was others. I don't recall just exactly.

Q. Subsequent to the time you joined the Union, Mr. Ely, did you do any active work in organizing the Union and attempting to get other employees to join? A. No, I didn't.

Q. Did you ask anybody to join the Union?

A. Well, I did talk to the sack sewer opposite me, a little about it.

Q. Did he join? A. No.

Q. Do you recall his name? Do you remember his name? A. Hulen Murphy.

Q. During the year 1938, Mr. Ely, did you ever work on the night shift at the Boswell plant?

A. Some, yes.

Q. Where did you work? What part of the plant did you work in on the night shift? [1166]

A. In the sack sewing department just outside of the expeller room, the oil mill.

Q. Is that a part of the oil mill? A. Yes.

(Testimony of Boyd L. Ely.)

Q. Who was in charge of the oil mill during that period? A. Kelly Hammond.

Q. Did you work directly under him?

A. Yes.

Q. Take orders from him? A. Yes.

Q. Carry out those orders? A. Yes.

Q. Did he lay you off when you were through working?

A. I don't think he ever did.

Q. Did he put you to work when you started there? A. No.

Q. Well, did Tom Hammond ever put you to work at any time during your employment with the Boswell Company? A. Yes.

Q. Well, when was that?

A. One time when I was working on the shindler ditch pump.

Q. Was he in charge of that work?

A. I suppose he was.

Q. Did he give you orders after you started working there? A. Yes. [1167]

Q. And did you carry them out? A. Yes.

Q. Well, you testified just a moment ago that he put you to work there. How did he put you to work?

A. I happened to be passing by the mill one afternoon, or sometime during the day—just a few days before or a day or two before I went to work—around the 12th, something like that, and he waved me down. I stopped. He asked me if I

(Testimony of Boyd L. Ely.)

thought I could go on the pumps. I told him I thought I could.

Q. Then did he tell you to go to work on the pumps? A. Yes.

Q. Now, Mr. Ely, I am going to show you Board's Exhibit No. 3, which contains a page which is your Social Security record for the year 1938-'39, and I direct your attention to an entry here on February 9th, 1939, an entry of \$2.40, under the heading of "Salary or Wages."

You have already testified that you were laid off on November 14th, 1938. Now, did you do any work for the Boswell Company for that check?

A. No.

Q. Well, how did it happen that you got that check, do you know?

A. Well, the last work that I done amounted to about three days. I was only paid 40 cents an hour for the last three days. Then, sometime later, three or four months later,—or [1168] run down the road somewhere—I don't know exactly—this balance, that last three days' work, was sent to me.

Q. In other words, that was a payment for work you did before November 14th?

A. Yes.

Q. Since November 14th, have you done any work at all? A. Yes.

Q. Can you tell us approximately how much you have earned for that work you have done?

(Testimony of Boyd L. Ely.)

A. Something over \$100.00.

Q. Something over \$100.00, is that correct?

A. Yes.

Q. That wasn't for the J. G. Boswell Company?

A. No.

Q. If the National Labor Relations Board—are you now employed? A. No.

Q. If the National Labor Relations Board should order your re-instatement with back pay, would you be willing to go to work for the J. G. Boswell Company? A. Yes.

Mr. McTernan: You may examine.

Cross Examination

Q. (By Mr. Clark) Mr. Ely, where did you work to earn this \$100.00 you have testified to? [1169]

A. I didn't get the question.

Q. Where did you work in order to earn this \$100.00 you have just told us about?

A. Up on the high school building.

Q. Here in Corcoran? A. Yes.

Q. And in what capacity, please?

A. Laborer.

Q. For how long did you work there?

A. I don't know exactly.

Q. Well, approximately?

A. Well, something over a month; maybe one or two months.

Q. I see.

When was that?

(Testimony of Boyd L. Ely.)

A. Well, that was in part of January, I believe, when I started.

Q. To whom did you apply to get that job?

A. Well—

Mr. Mouritsen (Interrupting): That is objected to as immaterial.

Mr. Clark: I submit it.

Trial Examiner Lindsay: He may answer.

The Witness: I don't know the man's last name, the timekeeper for the company up here that had charge of the school building. [1170]

Q. (By Mr. Clark) You mean for the contracting company that was building the school building? A. Yes.

Q. Now, after November 14th of 1938, did you ever apply for work again at the Boswell plant?

A. Yes.

Q. And when was that?

A. Well, I believe it was the next morning. I went down to see about whether there was going to be some more work, when they was going to start up.

Q. And that would be the morning of November 15th?

A. I believe it was; around about that time.

Q. Who did you go to see?

A. Joe Hammond.

Q. Did you see Gordon Hammond on that occasion? A. No.

Q. Or Mr. Louie Robinson? A. No.

(Testimony of Boyd L. Ely.)

Q. Did you ever make application to either Mr. Gordon Hammond or Mr. Louie Robinson for a further job? A. No.

Q. And since the occasion you have told us about on the morning of November 15th, approximately—I am talking about this time you had applied—have you made any further applications for work at the Boswell Company? [1171]

A. No.

Q. Now, directing your attention, Mr. Ely, to the time in 1938 when you resumed work during early July, I want to ask you how long you worked on that occasion, that is, from July 1, 1938?

A. To the latter part of September.

Q. All right.

To approximately the 28th of September, is that right? A. Somewhere around there.

Q. Now, what did you do during all that time, so far as your job was concerned?

A. I started out sewing sacks.

Q. And what else did you do?

A. Then I traded with George Andrade and went to the lint room.

Q. You went into the lint room, is that right?

A. Yes.

Q. For how long during that period did you sew sacks, that is, commencing July 1st?

A. Well, around a week or better, somewhere around the first two weeks the mill started.

Q. Then during the rest of that time, that is,

(Testimony of Boyd L. Ely.)

from about the middle of July on to the last of September, did you work in the lint room?

A. Yes. [1172]

Q. And what was your rate of pay again, during that entire period?

A. Well, 40 cents sewing sacks, and they cut me down to 35 cents when I went in the lint room.

Q. I see.

Well, now, as a matter of fact, the job in the lint room customarily pays 35 cents, doesn't it?

A. Well——

Q. (Interrupting): It pays less than sack sewing jobs, doesn't it? A. Yes.

Q. Then when you were laid off the last of September, '38, how long was it before you were again given a job at the Boswell place?

A. In October, some time.

Q. Well, wasn't it around the 15th of October?

A. Well, it could have been. I don't remember the exact date; somewhere around the middle of October, I guess.

Q. All right.

What was that job, please?

A. Sewing sacks.

Q. And did you again receive your 40 cents?

A. I received 45 cents.

Q. In that job you got 45 cents, is that right?

A. Yes; they didn't tell me. It was on my check when I got [1173] it.

Mr. Clark: Let me have that last.

(Testimony of Boyd L. Ely.)

Trial Examiner Lindsay: Read the answer, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: All right.

Q. If I understand you correctly, Mr. Ely, you stayed at that sack sewing job up until about November 14th? A. About that time.

Q. At the rate of 45 cents an hour?

A. Yes.

Q. Correct? A. Yes.

Q. All right.

When was it that you went into the grain harvest instead of staying at the plant? What year was that?

A. 1937, the first time. I was there a little the last year, too, a few days.

Q. I understood you to say on your direct examination that during one year you worked in the grain harvest instead of at Boswell's after some talk you had with Mr. Gordon Hammond, is that right? A. Yes.

Q. Was that in 1937? A. Yes. [1174]

Q. Why was it you went to work in the grain harvest instead of staying on at Boswell's?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: I will submit it. It goes to explain a statement he made on his direct examination.

Trial Examiner Lindsay: He may answer.

The Witness: Well, the water was beginning to

(Testimony of Boyd L. Ely.)

fill up in the lake out here by town; didn't know whether there was going to be a lot of work that summer or not.

Q. (By Mr. Clark) A lot of work where?

A. At the Boswell plant.

Q. Yes.

A. So I had a job in the harvest with better pay. I thought I would take it while I had a chance.

Q. Exactly.

Now, on your direct examination, I think you used, made the statement that it didn't look like too much work there.

You remember saying that? A. Yes.

Q. Now, by that, did you mean it didn't look like too much work, like there would be too much work at the Boswell plant?

A. Didn't look that way on account of the water coming in the lake, didn't know how fast it would come in; wasn't an overflow, or what not, but if I stayed I could have worked.

Q. I see. [1175]

Now, as a matter of fact, it did turn out, didn't it, that the following season, that is, the '38-'39 season, was a short season at the Boswell plant?

A. Yes, shorter than the others.

Q. And during that fall, did you observe that there was less work to go around than there had been formerly?

Mr. Mouritsen: Objected to as vague and indefinite, unintelligible.

(Testimony of Boyd L. Ely.)

Mr. Clark: I will submit that. It is perfectly intelligible.

Trial Examiner Lindsay: If he understands, he may answer.

Do you understand the question?

The Witness: I think I do.

Yes, there was some—there was less work than there had been the year before.

Q. (By Mr. Clark) Now, did you know of a conversation between Mr. Prior and Mr. Gordon Hammond in early October with reference to putting you back to work?

A. I believe I heard some remark about that.

Q. Did Mr. Prior report to you the result of that conversation?

A. I believe he did.

Q. And did you understand that it was as a result of that conversation that you were again employed on October 15th, about, of 1938?

A. Well, it looked that way. [1176]

Q. That was your assumption, is that right?

A. Yes.

Q. You joined the Union when, Mr. Ely?

A. On September 5th, I think.

Q. And after you joined the Union, did you let it be known to other employees that you were a member of the Union?

A. No, I didn't broadcast it.

Q. Did you talk to any other employes about it, who were not members of your Union?

(Testimony of Boyd L. Ely.)

A. Outside of that sack sewer, I don't think I mentioned anything about it. I didn't even tell him I belonged to the Union.

Q. Didn't tell him that you belonged?

A. No.

Q. After November 18th, did you attend any meetings of the Union? A. Yes.

Q. Did you attend a meeting on the next day at which a boycott was declared against the Boswell Company? That is, on November 19th?

A. I attended several meetings. The dates I don't recall.

Q. Well, did you attend a meeting of the Union at which a boycott was declared against the Boswell Company by the membership of this Union?

A. I think I did.

Q. And you have been taking part in that boycott, haven't you? [1177] A. I have.

Q. Have you been on the picket line?

A. I have.

Q. Now, did you attend any meetings of the Union after November 28th, in which Mr. Prior made a report of a meeting he had had with Mr. Louie Robinson on that day? A. After?

Q. Withdraw it.

Did you ever hear—did Mr. Prior, rather, ever report to you in Union meeting or otherwise the result of a conversation he had on November 28th with Mr. Louie Robinson of the Boswell plant, at which the matter of the re-employing of the members of your Union was discussed?

(Testimony of Boyd L. Ely.)

A. I don't remember whether he made any such report to me or not. I heard of it, but I don't know just who by. [1178]

Q. How did you hear of it? A. Well——

Q. (Interrupting): Do you remember?

A. I was with some of the boys most all the time.

Q. And by "some of the boys," you mean some of the members of the union? A. Yes.

Q. And you heard them discussing it, did you?

A. Yes.

Q. In that connection, did you hear that Mr. Prior had stated to Mr. Louie Robinson that unless Mr. Martin was reemployed that then no one would go back to work?

A. I couldn't say that I heard any such statement as that.

Q. Did you hear any statement along that line?

A. Seems like I heard something said about it, that he couldn't go back to work.

Q. That Martin couldn't? A. Yes.

Q. Is that right? A. Yes.

Q. And then did you hear a statement to the effect that Mr. Prior had told Mr. Robinson that if Martin couldn't go back to work, nobody would go back?

A. I don't remember hearing that statement.

Q. Well, what—— [1179]

Trial Examiner Lindsay (Interrupting): I think—just one moment.

Mr. Clark: Withdraw that.

(Testimony of Boyd L. Ely.)

Trial Examiner Lindsay: That is a misquotation of the evidence. The statement regarding that matter was, by Prior and others, that if Martin and others were not to go back to work, then there was no necessity of further discussing the matter.

Mr. Clark: It means the same thing, Mr. Examiner.

Trial Examiner Lindsay: Whether it does or not, it is another question.

Mr. Clark: The record speaks for itself.

May I have the question read back?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I will withdraw.

Q. Did you hear any statement, Mr. Ely, regarding this conversation we are discussing, to the effect that Mr. Prior had refused to discuss the matter of reinstating the members of your union with Boswell's until Martin was re-employed?

A. I don't remember any such statement.

Q. Well, do you remember anything in that general nature?

Mr. Mouritsen: I object to that as vague and indefinite, Mr. Examiner.

Mr. Clark: I will withdraw it. [1180]

Mr. Mouritsen: This type of examination, what he didn't say—we can find out perfectly easily by asking the witness what he did say.

Mr. Clark: I am entitled to exhaust the conversations or to ask him whether certain things were

(Testimony of Boyd L. Ely.)

said. I prefer to do it that way. I will submit it.

Trial Examiner Lindsay: Well, the question has been answered. Proceed.

Q. (By Mr. Clark) Was that general subject matter discussed at all, Mr. Ely, after the November 28th meeting among the membership of your union?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: In your presence, of course.

The Witness: I don't remember.

Q. (By Mr. Clark) What if anything did you hear, Mr. Ely—withdraw that.

After November 28th of last year, were you ever present at any meeting of the union at which the attitude of the union toward the Boswell Company was determined upon by the members with respect to whether they would or would not go back to work? A. I don't quite get it.

Q. All right.

Am I correct in stating that shortly after November 18th [1181] the union voted a boycott against Boswell's? Is that right?

A. I suppose so.

Q. Well, don't you know?

A. Well, they did.

Q. Weren't you there? A. Yes.

Q. All right. You took part in the vote, didn't you? A. Yes.

Q. All right.

(Testimony of Boyd L. Ely.)

Did they also vote to go out on strike against Boswell?

A. I never heard anything about a strike at Boswell's.

Q. All right.

Now, at the time they voted to boycott Boswell's, will you please tell us what if anything was determined upon as being the condition for the termination of the boycott?

A. I don't recall just what was said at that meeting.

Q. Was anything said at that meeting concerning the purpose of the boycott so far as the union was concerned?

A. I suppose there was, but I don't remember just what was said.

Q. Well, don't you know what you voted for, Mr. Ely?

Mr. Mouritsen: Objected to as argumentative.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Is it your best recollection that you have given us on that subject? [1182]

A. The best I remember.

Q. Was Mr. Prior present at that meeting?

A. I think so.

Q. I want to show you a document consisting of three pages, which has been marked Respondent Boswell's Exhibit 8 for identification in this case, which purports to be a letter dated October 17, 1938, addressed to Mr. G. L. Hammond, superintendent, J. G. Boswell Company, Corcoran, Cali-

(Testimony of Boyd L. Ely.)

fornia, by J. G. Boswell Company, Louis T. Robinson, attached to which are two columns of lines, one headed "I prefer 8-hour shift," and the other "I prefer 12-hour shift," and upon which certain names appear under the heading "I prefer 12-hour shift."

Have you ever seen that before?

A. I have.

Q. And where, please?

A. In Mr. Gordon Hammond's office down at the plant.

Q. And when?

A. Well, a short time before we went back to work.

Q. You mean about the 15th of October?

A. Somewhere around there.

Q. Or would it be about the 17th of October?

A. Well, I couldn't say; somewhere in there.

Q. All right.

Now, I want to direct your attention, Mr. Ely, to the [1183] signature, "B. L. Ely," which appears on the right-hand column of the second page of this document, and the eleventh signature. I will ask you whether or not that is your signature.

A. (Examining document) It is.

Q. And did you sign it on or about October 17th at this conversation with Mr. Hammond?

A. Somewhere around that, or just a short time after; somewhere in there.

Q. At that time did Mr. Hammond show you this letter? A. He did.

Q. Did he discuss it with you?

(Testimony of Boyd L. Ely.)

A. Well, he showed me the letter.

Q. What did he say about it?

A. I don't remember.

Mr. Mouritsen: This is objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit that.

Trial Examiner Lindsay: He may answer.

The Witness: I don't remember what he said about it.

Q. (By Mr. Clark) Do you remember the substance of what he said about it?

Mr. Mouritsen: May I have a continuing objection to all the examination concerning this document that has been marked Boswell's 8 for identification on the ground that it is in- [1184] competent, that it does not have any bearing upon the issues of this case whether the Boswell Company engaged in unfair labor practices.

Trial Examiner Lindsay: Yes. You may have a continuing objection and exception.

Mr. Clark: May I have the question read back, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark) What Mr. Gordon Hammond said about this document?

A. No. There was something said about the short run.

Q. What did you understand by the term "short run"?

(Testimony of Boyd L. Ely.)

A. Of the mill; mentioned something about how long it would take to run the seed.

Q. That is the seed on hand? A. Yes.

Q. And did Mr. Gordon Hammond say it would take only a short time to exhaust that seed?

A. I believe it was 60 or 70 days.

Q. That is what he said, is that right?

A. The best I remember.

Q. Well, did he say anything to you—withdraw that.

Did he say to you that it was up to the men whether [1185] they wanted to work an 8-hour shift or a 12-hour shift in the mill?

A. He said something about passing that paper around to sign up, whether they wanted 12 hours or 8 hours.

Q. Was that all he said, in substance, to you about it?

A. Well, he might have said something else. I don't remember just what all he said.

Q. Is that all you can recall to mind at the present time?

A. He said it didn't make any difference to him whether they worked 12 hours or 8 hours; get the same rate of pay per hour. I didn't know how to make in 8 hours the same money, per hour, and I said I might as well sign with the rest of them; seemed like they all wanted 12 hours.

Q. At the time you signed it did you see some other names ahead of yours? A. Yes.

Q. In other words, just as they appeared on this document now, isn't that right?

(Testimony of Boyd L. Ely.)

A. I suppose so.

Q. You signed it voluntarily, didn't you?

A. Yes.

Q. In other words, it was of your own free will that you signed it?

A. Just signed it; if I didn't probably not working. [1186]

Q. What do you mean by that?

A. Well, just a rumor I had heard.

Q. Did Mr. Gordon Hammond say anything to you about that? A. Only what I told you.

Q. That is all he did say, isn't that it?

A. The best I remember.

Q. Isn't it a fact he told you it didn't make any difference in whether you worked 8 hours or 12 hours?

Mr. Mouritsen: I object to this manner of examining the witness, browbeating him.

Mr. Clark: May I have an answer to the question?

Trial Examiner Lindsay: He has answered the question. Proceed.

Q. (By Mr. Clark) And you signed of your own free will, didn't you?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I submit that.

Trial Examiner Lindsay: Sustained.

Mr. Clark: I will offer the document in evidence, your Honor, as Respondent Boswell's Exhibit next in order.

(Testimony of Boyd L. Ely.)

Mr. Mouritsen: Object to the introduction upon the ground it does not tend to prove or disprove the issues in this matter; it is incompetent, irrelevant and immaterial.

Mr. Clark: May I make a statement, Mr. Examiner?

Trial Examiner Lindsay: If you think it is necessary. [1187] I am going to receive the document.

Mr. Clark: Very well then. I don't want to make a statement.

(Thereupon the document above referred to was received in evidence and marked respondent Boswell's Exhibit No. 8.)

BOSWELL'S EXHIBIT NO. 8

J. G. Boswell Company
Cotton Merchants and Manufacturers
of Cottonseed Products
Corcoran, California
Home Office
Los Angeles, California

October 17, 1938.

Mr. G. L. Hammond, Superintendent
J. G. Boswell Company
Corcoran, California

Dear Sir:

As you and your oil mill employees know, because of the Agricultural Adjustment Administra-

(Testimony of Boyd L. Ely.)

tion Farm Program enforcing a curtailment in our cotton acreage of approximately 45% of last year, and because of the loss of the largest part of the Corcoran crop by the Tulare Lake floods, we will only have a crush this season of around 5,000 to 6,000 tons of cottonseed.

The management of this Company has no particular preference as to when this seed is crushed because we already have a large unsold supply of cottonseed cake on hand and if we crush the seed we will only accumulate more unsold cottonseed cake, and if we have to carry the by-products of the cottonseed anyway, we can carry the whole cottonseed cheaper.

It has come to the attention of the management that perhaps some employees prefer three 8 hour shifts instead of two 12 hour shifts.

It would be appreciated if you will have your oil mill employees signify below their preference for starting the crush and their preference between a 12 hour shift and an 8 hour shift.

Yours very truly,

J. G. BOSWELL COMPANY
LOUIS T. ROBINSON

I prefer 8 hr. shift

.....

I prefer 12 hr. shift

YGNASIO GALVAN
JACK OWINGS
D. B. BURDINE
CLARK MITCHELL

(Testimony of Boyd L. Ely.)

K. V. HAMMOND

R. E. WHITE

H. R. MURPHY

PAUL MORRIS

OSCAR WHITE

A. GALVAN

NALEN BUTCHER

WALTER WINSLOW

TOM DORNHAM

J. W. TISDALE

JOE BRILEY

B. L. ELY

LAWRENCE GALVAN

V. C. GALVAN

PETE GALVAN

MANUEL ESCOBEDO

EDWARD WILLIAMS

I prefer starting crush immediately

.....

I prefer delaying this season's crush

.....

[Endorsed]: Filed 5/25/39.

Mr. Clark: No further questions.

Mr. McTernan: That is all.

(Witness excused.)



Mr. Mouritsen: Could we take a short recess at this time?

Trial Examiner Lindsay: Yes.

(Discussion outside the record.)

Trial Examiner Lindsay: We will take a 20-minute recess.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: The hearing is called to order.

Mr. Clark: Ready.

Mr. Mouritsen: Ready for the Board.

Call Mr. L. E. Ely.

L. E. ELY

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows: [1188]

Direct Examination

Q. (By Mr. Mouritsen) What is your name?

A. L. E. Ely.

Q. Where do you reside?

A. 1149 Brokaw.

Mr. Clark: What is the witness' initials?

Trial Examiner Lindsay: L. A. Is that right?

The Witness: L. E.

Q. (By Mr. Mouritsen) Can you speak up a little louder? A. Yes.

Q. Did you ever work for the J. G. Boswell Company in Corcoran, California? A. Yes.

Q. When did you first work for that company?

A. In either September or October, 1936.

Q. What type of work did you start to do with the company? A. On the hay cutter.

(Testimony of L. E. Ely.)

Q. What rate of pay did you receive?

A. 30 cents an hour.

Q. What hours did you work per day?

A. Eleven.

Q. How long did you work on the hay cutter at that time? A. Approximately two months.

Q. Then what type of work did you do?

A. I was laid off. [1189]

Q. How long were you laid off?

A. Until September of 1937.

Q. What type of work did you start to do then?

A. Well, I started in around the gins, working around the gins, and sucking the seed.

Q. And what rate of pay did you receive per hour? A. 35 cents per hour.

Q. What hours did you work per day?

A. 12 hours.

Q. How long did you continue to do that type of work? A. Until about November of 1937.

Q. What type of work did you start to do then?

A. Press helper in No. 4 gin. [1190]

Q. Was there any change in your rate of pay or hours of work? A. No, sir.

Q. How long did you continue to do that type of work? A. Up until February of 1938.

Q. What occurred then?

A. I—well, I did odd jobs in the gin, out in the yard, hauled sand.

Q. How long did you continue to do that type of work? A. Until March 9th, 1938.

(Testimony of L. E. Ely.)

Q. At that time, were you paid off?

A. Yes.

Q. When did you next work for the Company?

A. I think it was in June of 1938.

Q. What type of work did you start to do then?

A. Chasing lint, and oil mill.

Q. And what was your rate of pay at that time?

A. 35 cents.

Q. And what hours did you work per day?

A. Twelve hours.

Q. How long did you continue to do that type of work? A. Two weeks.

Q. Then what occurred?

A. I was laid off again.

Q. When did you next go back to work for the Company, if ever? [1191]

A. I think it was in July.

Q. What type of work did you do in July?

A. Baling straw.

Q. And after that—how long did you work beginning in July?

A. About six weeks, I think.

Q. Were you then laid off? A. Yes.

Q. When did you next go back?

A. In October.

Q. And what type of work did you start to do in October? A. As a gin press helper.

Q. This was in 1938? A. 1938.

Q. Was there any—did you receive 35 cents per hour when you went back in October, '38?

(Testimony of L. E. Ely.)

A. I received 40.

Q. And what hours did you work in October of 1938? A. Twelve hours.

Q. How long did you continue to do that type of work?

A. Well, I was a press helper for about five days, then the press man was taken ill and I had the head pressman's job.

Q. Who was the pressman that was taken ill?

A. Joe Briley.

Q. Had you been his helper prior to that time? [1192] A. Yes.

Q. After you took the job over, how long did you continue to do that type of work?

A. For about two weeks.

Q. Then what type of work did you do?

A. He came back, and I went back as a helper.

Q. After you resumed your work as a pressman's helper, what rate of pay did you receive?

A. 35 cents.

Q. And how did you—strike that.

When did you first find out that you were only receiving 35 cents per hour for your work as a press helper?

A. It was on Saturday at payday when I received the check.

Q. Do you recall the month and the year?

A. On or about October or November—let's see. November, about the 12th, of 1938.

Q. Did you have any conversation with anyone

(Testimony of L. E. Ely.)

regarding the fact that you were receiving 35 cents per hour? A. Yes.

Q. With whom did you have such a conversation? A. Tommie Hammond.

Q. Where did the conversation take place?

A. East side of Number 3 and 4 gin dryer.

Q. And was this on the same day on which you found out that you were receiving 35 cents per hour? [1193] A. Yes.

Q. Was anyone else present other than yourself and Tommie Hammond? A. Joe Briley.

Q. Did he take any part in the conversation?

A. Not that I remember.

Q. Will you state what Tom Hammond said to you on that occasion, and what you said to Tom Hammond?

Mr. Clark: To which we object, Mr. Examiner, on the ground it calls for hearsay, and is incompetent, irrelevant and immaterial, and upon the further ground that there is no authority established in this record to Mr. Tom Hammond or the other persons present at this conversation to speak for the Respondent Boswell with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: Well, I asked Tom did he know why my check was cut down from 40 to 35 cents per hour. And he said, "No, is it?"

And I said, "Yes." And I asked him would he find out about it.

(Testimony of L. E. Ely.)

And he said that he would. Then he stated that maybe the Union had something to do with it.

Mr. Clark: May I have that last read? I didn't quite hear [1194] it.

Trial Examiner Lindsay: Yes. Read the last of the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) At that time, was anything said regarding the Union committee; do you recall? A. Yes.

Q. Will you state what was said?

A. He said——

Mr. Clark (Interrupting) Same objection, Mr. Examiner.

Trial Examiner Lindsay: The same ruling.

The Witness: He said, "Maybe you should get your committee together and go up to the office and see if they couldn't find out something about it."

Q. (By Mr. Mouritsen) Did you make any reply to that?

A. I said, "Well, I really hadn't thought of that. It might be a good idea."

Q. Do you recall anything further that was said at that time, either by yourself or Tom Hammond?

Mr. Clark: Same objection.

Trial Examiner Lindsay: Same ruling.

Mr. Clark: The objection is that it is incompetent, irrelevant and immaterial whether anything else was said. I don't know if this calls for the con-

(Testimony of L. E. Ely.)

versation or not. [1195]

Trial Examiner Lindsay: He may answer.

Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: About that time he started to go back into the gin, and Tommie said, "Well, I will see about why your wages was cut, and let you know."

Q. (By Mr. Mouritsen) And did that end the conversation? A. Yes.

Q. During the month of November, 1938, did you suffer any injury to your hand or thumb?

A. Yes.

Q. When did that occur?

A. Well, it first started in about November 5th.

Q. And what happened at that time in reference to such an injury?

A. I was tying out cotton at the press, and I scratched my thumb with one of the ties, and it set up an infection.

Q. Yes.

Did you visit the doctor at that time?

A. No, I didn't go until the 9th of November.

Q. And did you visit the doctor with reference to the injury on a number of occasions after November 9th, 1939? A. Yes.

Q. On approximately how many different occasions? [1196]

(Testimony of L. E. Ely.)

A. Every other day for about three weeks, and then I would go twice a week to see him.

Q. Yes.

And after—strike that.

When did you last work for the J. G. Boswell Company? A. November 14th, 1938.

Q. On that day did you have a conversation with the doctor relative to your injury? A. Yes.

Q. Where did the conversation take place?

A. In Doctor Edmonds' office in Corcoran.

Q. Do you know the street number of this Doctor's office in Corcoran?

A. No, I don't. It is what we call the main street.

Q. Do you know whether or not that is called Whitley Avenue? A. I think that is.

Q. And do you know any of the cross streets near which that office is?

A. I don't remember any of them right now.

Q. Was anyone else present at the time when you had your conversation with Doctor, I believe you said, Edwards? A. Edmonds.

Q. Was anyone else present? A. No.

Q. Will you state what Doctor Edmonds said to you at that [1197] time, and what you said to Doctor Edmonds? A. (Pause.)

Mr. Clark: Objected to as incompetent, irrelevant and immaterial, and calling for hearsay.

Trial Examiner Lindsay: He may answer.

The Witness: He asked me if I was still working, and I said, "Yes, I am."

(Testimony of L. E. Ely.)

And he said, "Well, you go home and don't you work any more until I tell you you are able to work."

And I said, "All right."

Q (By Mr. Mouritsen) Now, after that, was there anything further said that you recall?

A. Not that I recall.

Q. After that time, did you make any report to any of the Hammond boys regarding your injury and the statements the doctor had made to you?

Mr. Clark: I object to that, may it please the Examiner, on the ground that it is incompetent, irrelevant and immaterial. I know of no issue in this case having to do with the subject matter. It certainly doesn't involve discrimination against anyone for having joined the Union, or any matter that I am familiar with under the National Labor Relations Act.

Trial Examiner Lindsay: We will have the whole story. You may have an exception.

Read the question. [1198]

(The question referred to was read by the reporter, as set forth above.)

The Witness: Yes.

Q. (By Mr. Mouritsen) And to whom did you make such report? A. Tommie Hammond.

Q. And when was it with reference to the conversation you had had with the Doctor?

(Testimony of L. E. Ely.)

A. As soon as I got back to the plant from the Doctor's office.

Q. And after you had made the report to Tom Hammond, did he tell you to go home?

A. Yes.

Trial Examiner Lindsay: One point I did not get.

What was the day you were injured on? November what?

The Witness: 5th.

Trial Examiner Lindsay: 5th.

Q. (By Mr. Mouritsen) And have you worked for the Boswell Company since on or about November 14th, 1938? A. No.

Q. Now, during the time while you were employed with the J. G. Boswell Company, did you ever become a member of any labor organization?

A. Yes.

Q. Of what organization?

A. American Federation of Labor. [1199]

Q. And did you become affiliated with any Local of the American Federation of Labor?

A. Yes.

Q. Do you recall the name of the Local?

A. Cotton Products and Grain Mill Workers' Union, Local 21798.

Q. Now, when did you become a member of that organization? A. On November 11th, 1938.

Q. Did you become a member at any gathering, or get-together of the employees, held on or about that date? A. I don't remember now.

(Testimony of L. E. Ely.)

Q. Well, where were you when you signed up?

A. I was at the home of Lonnie Spear.

Q. And were there a number of other employees of the Company present at that time?

A. Yes.

Q. Will you name as many as you can of the people who were present at that time?

A. Lonnie Spear, R. K. Martin, George Andrade, Walter Winslow, W. R. Johnston, Coon Powell.

Q. Is he also known as E. C. Powell?

A. Yes.

And Pete Wingo, and others I don't remember now. [1200]

Q. Now, during the time while you were employed by the J. G. Boswell Company did you ever have any conversation with Bill Robinson relative to the union or its members?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Overruled. You may answer.

The Witness: Yes.

Q. (By Mr. Mouritsen) Now, who was Bill Robinson?

A. He is an employee at the J. G. Boswell plant in Corcoran.

Q. During the course of your employment did you on a number of occasions work in and about the gin? A. Yes.

Q. During that time while you worked in and

(Testimony of L. E. Ely.)

about the gins did Robinson ever give you any orders or directions regarding your work?

A. Yes.

Q. Did he do that on a number of occasions?

A. Yes.

Q. Did you obey the orders or directions he gave you concerning the work? A. Yes, sir.

Q. On a number of occasions did you observe that he gave instructions or orders to other employees working in the gin? A. Yes. [1201]

Q. Did you observe whether or not they also carried out the orders of Bill Robinson?

A. They did.

Q. Now, I believe you stated that you had a conversation with Robinson.

Do you recall on or about what date that took place?

A. It was on or about October 22nd of 1938.

Q. And where did the conversation take place?

A. East of the No. 3 and 4 gin platform.

Q. Was anyone present other than yourself and Bill Robinson? A. No.

Q. Will you state what Mr. Bill Robinson said to you on that occasion and what you said to him?

Mr. Clark: To which we object, Mr. Examiner, on the ground it calls for hearsay, no authority having been shown in this record from the Respondent Boswell Company to Mr. Bill Robinson to speak for the company with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

(Testimony of L. E. Ely.)

The Witness: The conversation started—I asked Bill—I saw George Andrade raking up around the warehouse, and I asked Bill why George wasn't back in the lint room. I knew he had been there for ever since I had been there—ever since I had been there he had always worked in the lint room.

And he said, “Haven't you heard any talk about the union?” [1202]

And I said, “No, I haven't.”

He said, “Well, George belongs to it. That is why he is out there.” He said, “He is just working on borrowed time.”

Mr. Clark: May I have the last?

Mr. Mouritsen: “He is just working on borrowed time.”

Q. Isn't that correct? A. Yes.

Q. Do you recall anything further that was said at that time?

A. He said there was a couple more around there—

Mr. Clark (Interrupting): The same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: “A couple or three more around here that you know real well that is in the same boat he is in.”

He says, “You are working with one of them and the other is over in No. 1 or 2 gin.”

Q. (By Mr. Mouritsen) With whom were you working at that time?

A. R. K. Martin, the ginner.

(Testimony of L. E. Ely.)

Q. Do you recall any further conversation at that time? A. No, I don't.

Q. Now, did you have a conversation with Gordon Hammond on or about November 18, 1938?

A. Yes. It was in the afternoon or the evening.

Q. Approximately what time in the evening? [1203]

A. Between 7:00 and 8:00 o'clock.

Q. And where did the conversation take place?

A. Between the J. G. Boswell office and the oil mill.

Q. That is, out at the J. G. Boswell plant, is that correct? A. Yes.

Q. Was anyone else present other than yourself and Gordon Hammond at that time?

A. The engineer, Workman, Frank Price; that is all I remember now that was there.

Q. Yes.

Did you observe in and about the office of the plant a number of the other employees of the company? A. Yes.

Q. Approximately how many?

A. Well, 70 or 80.

Q. Well, will you state what conversation you had with Gordon Hammond on that occasion?

A. Well, I told him that my thumb was getting better and I thought I soon would be ready to go back to work.

And he told me that—to see Tommy, that Tommy was inside of the office.

Q. Do you recall anything further that was

(Testimony of L. E. Ely.)

said? A. Not by him.

Q. Well, at or about that time did you hear any other em- [1204] ployee of the company say anything? A. Yes.

Q. Who was this other person?

A. Frank Parrish.

Q. And who is he?

A. He is the blacksmith, I think, is what job he holds at the plant in Corcoran of the J. G. Boswell Company.

Q. What did Parrish say to you?

Mr. Clark: Do I understand, Mr. Examiner, that this conversation is in the presence of Gordon Hammond? The conversation between the employee Parrish? If it isn't, I want to object to it on the ground it calls for hearsay.

Mr. Mouritsen: I will establish that.

Q. At the time when you said anything to Parrish or Parrish said anything to you, was Gordon Hammond present? A. Yes.

Q. How far away from you was he at the time when Parrish said something to you or you said something to Parrish?

A. He could have been two or three yards.

Q. Very well. Will you state now what Frank Parrish said to you or you said to Parrish on that occasion?

Mr. Clark: May I ask one preliminary question in that regard?

Trial Examiner Lindsay: Well, yes.

(Testimony of L. E. Ely.)

Mr. Clark: Mr. Ely, was Mr. Gordon Hammond taking part [1205] in this conversation at the time Parrish made the statement to you you are about to give us?

The Witness: He was standing by.

Mr. Clark: Had you been talking to him and had he been taking part in the conversation?

The Witness: He had been talking to me.

Mr. Clark: Was this within Mr. Gordon Hammond's hearing?

The Witness: Absolutely.

Mr. Clark: Very well.

Mr. Mouritsen: Very well.

Q. Now, will you state what Mr. Parrish said to you, if anything?

A. Well, he said, "Come on, kid, get out of there and go in the office and sign that paper. Keep this God damned A. F. of L. union out of here. We don't need it. We have had a long time without it. We can still get along without it."

Q. Where was Mr. Parrish standing when he made that statement to you?

A. Beside my car.

Q. Now, after November 14, 1938, did you ever make application for employment with the J. G. Boswell Company? A. No.

Q. Did you ever receive any notification from them regarding [1206] your further employment with the company? A. Yes.

Q. About when did you receive such notification? A. On or about November 26, 1938.

(Testimony of L. E. Ely.)

Q. And what was the form of that notification?

A. Registered letter.

Q. And did that inform you that your services were terminated? A. (Pause)

Mr. Clark: Well, I submit, Mr. Examiner, the letter is the best evidence if it is available.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Mouritsen) Do you have that letter with you? A. Yes.

Q. Now? A. Yes.

Mr. Mouritsen: May I have it, please?

(The document referred to was passed to Mr. Mouritsen.)

Mr. Mouritsen: May this be marked for identification?

(Thereupon the document above referred to was received and marked as Board's Exhibit No. 8 for identification.)

Q. (By Mr. Mouritsen) Now, Mr. Ely, I show you a document that has been marked Board's Exhibit 8 for identification and ask you if that is the notification regarding termination of your employment that you referred to. [1207]

A. Yes, sir.

Q. And did you receive that through the ordinary course of the mail?

A. Yes, sir; through the post office.

Q. In other words, you picked it up at the post office, is that correct? A. Yes.

Q. And are you acquainted with the signature of Mr. Louis T. Robinson?

(Testimony of L. E. Ely.)

Mr. Clark: There is no question about it. It may go in evidence as far as we are concerned.

Mr. Mouritsen: Very well.

At this time I offer as Board's Exhibit 8 the document marked as Board's Exhibit 8 for identification.

Mr. Clark: No objection.

Trial Examiner Lindsay: Board's Exhibit 8 received.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 8.)

BOARD'S EXHIBIT No. 8

J. G. Boswell Company

Cotton Merchants and Manufacturers

of Cottonseed Products

Corcoran, California

Home Office

Los Angeles, California

November 28, 1938.

Registered Mail Return Receipt Requested

Mr. L. E. Ely
Corcoran, California

Dear Sir:

Because of the reduced receipts at our plant of seed cotton for ginning, and in accordance with our usual operating practice, we closed down gin #4 on

(Testimony of L. E. Ely.)

which you were employed, Saturday, November 26, at 5 P. M. and your employment by this Company terminated at that time.

Your closing pay check has been issued and will be delivered to you at the usual place in our Corcoran office.

Yours very truly,

J. G. BOSWELL COMPANY
LOUIS T. ROBINSON

(Envelope):

J. G. Boswell Company
Corcoran, California

Registered Mail Return Receipt Requested

(Addressed to):

Mr. L. E. Ely
Corcoran, Calif.

Register No. 536.

(Stamped on reserve side):

Corcoran, Calif., Nov. 28, 1938.

[Endorsed]: Filed 5/31/39.

—————

Q. (By Mr. Mouritsen) After that time—now, after you received the document that has been marked Board's Exhibit 8 for identification, did you ever apply for employment? A. No.

Trial Examiner Lindsay: You just changed your question there. It is now an exhibit and not marked for identification. [1208]

Mr. Mouritsen: Did I say for identification?

Trial Examiner Lindsay: Yes.

(Testimony of L. E. Ely.)

Mr. Mouritsen: May that be changed?

Mr. Clark: Oh, surely.

Q. (By Mr. Mouritsen) After November 14, 1938, were you ever informed by the doctor that you could go back to work?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; and calling for hearsay. This doctor, Mr. Examiner, hasn't been identified as being the representative of this company for compensation purposes or of the insurance company which carries compensation on these employees. In fact, he hasn't been identified at all as far as I have heard.

Trial Examiner Lindsay: I think we have a pretty good idea. He lives in this little city. His name has been given.

He may answer.

Mr. Clark: Exception.

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: Yes.

Q. (By Mr. Mouritsen) How did you happen to go to Dr. Edmond's in the first place, Mr. Ely?

A. Well, it is what we call the family doctor. That is the one I have always went to; and I think it was Bill Robinson or Tommy Hammond that told me that was the doctor to go to. [1209]

Mr. Clark: May it please your Honor, I move that go out on the ground of hearsay, no authority

(Testimony of L. E. Ely.)

shown to either of those gentlemen to act for this company. I didn't have a chance to interpose my objection, so I put it in the form of a motion to strike.

Trial Examiner Lindsay: The motion is denied.

Q. (By Mr. Mouritsen) Now, I believe you stated that some time after November 14th, 1938, you were informed by the doctor that you could go back to work, is that correct?

Mr. Clark: The same objection; hearsay.

Trial Examiner Lindsay: Same ruling.

The Witness: Yes.

Q. (By Mr. Mouritsen) On or about what date did he give you that information?

A. December 2nd, 1938.

Q. And where were you at the time when he told you you could go back to work?

A. In the doctor's office.

Q. Was anyone else present? A. No.

Q. Did he at that time examine your injured thumb? A. Yes.

Q. Then what did he say to you, if anything?

Mr. Clark: The same objection, your Honor; hearsay.

Trial Examiner Lindsay: Same ruling. [1210]

The Witness: He said I could go back to work if—that day if I would be careful with my injured thumb.

Q. (By Mr. Mouritsen) And after that time

(Testimony of L. E. Ely.)

did you apply for employment with the company?

A. No.

Q. What was the reason for your not applying?

A. I had received a registered letter from him stating that I was no longer needed.

Q. Prior to your lay-off on November 14, 1938, how had you been notified to return to work?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Sometimes I would go down to the plant in person and other times they would come out to the house where I live after me.

Q. (By Mr. Mouritsen) And can you give us the name of any person who came out to the house to get you to come to work on prior occasions?

A. Gordon Hammond.

Q. Any others?

A. Not that I remember.

Q. Since December 2nd, 1938, have you picketed the plant here in Corcoran?

A. Yes. [1211]

Q. Have you done that on a number of occasions? A. Yes.

Q. If the National Labor Relations Board—strike that.

Since you were laid off or since you ceased working on November 14, 1938, have you had other employment?

A. I think I worked approximately 14 hours.

(Testimony of L. E. Ely.)

Q. And what compensation did you receive, if any?
A. I received \$4.80.

Q. And other than the \$4.80 have you earned any other money during the period from November 14, 1938, to the present date?

A. \$7.80.

Q. Well, other than the \$4.80 and the \$7.80, have you earned any other money?
A. No.

Q. Are you now employed?
A. No.

Q. If the National Labor Relations Board should order your reinstatement with back pay, would you accept employment with the J. G. Boswell Company?

A. (Pause) Yes.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Ely, you hesitated on that last question. Have you any reservation you wish to make to that [1212] answer? You understand what I mean?
A. Yes, I understand.

Q. Well, have you any, any qualification to that answer?

A. Well, I really wouldn't like to work at 12 hours a day again.

Q. You would not.

Now, what other conditions in the plant there as they existed at the time you worked at the Boswell Company would stand in the way of your accepting employment from that company should the Board order your reinstatement?

(Testimony of L. E. Ely.)

Do you understand the question?

May I have it read, Mr. Examiner?

Trial Examiner Lindsay: Yes.

The Witness: Well, I would like to get more money for my work.

Q. (By Mr. Clark) More money than the 35 cents an hour you were getting? A. Yes.

Q. Or the 40 cents an hour you were getting?

A. Either one.

Q. What?

A. Either one.

Q. More than the 40 cents, too?

A. Yes.

Q. In other words, you weren't satisfied at all with your [1213] job at Boswell's, were you, prior to the time you finally left?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Sustained as to the form of the question.

Q. (By Mr. Clark) Well, you weren't satisfied with your employment, Mr. Ely, then, prior to November 14th, upon which date I think you told us you finally left the company?

Mr. Mouritsen: Objected to as already asked and answered, and argumentative.

Trial Examiner Lindsay: Well, he may answer.

Mr. Mouritsen: Irrelevant and immaterial.

Mr. Clark: What is the ruling?

(Testimony of L. E. Ely.)

Trial Examiner Lindsay: He may answer.

The Witness: What is the question?

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

The Witness: No.

Q. (By Mr. Clark) And if I understand you correctly, you weren't satisfied with the number of hours you were required to work or the amount of pay you were getting, isn't that so?

A. That is correct. [1214]

Q. Is that why you joined the union?

A. It is.

Q. When did you apply, first apply for membership in the union? A. November 11, 1938.

Q. Well, was that the date upon which you were initiated or the date upon which you first signed the application?

A. When I first signed the application.

Q. I see.

And had you had any discussions with any union members prior to that time about joining?

A. I had.

Q. Who were they, please? Who did you talk to?

A. Joe Briley and R. K. Martin.

Q. Who presented you with the application you finally signed? A. R. K. Martin.

Q. Now, on October 22nd, Mr. Ely, I think you said you had a conversation with Bill Robinson.

(Testimony of L. E. Ely.)

A. Yes.

Q. Is that right? A. Yes.

Q. And you also told us on your direct examination that you stated during that conversation, or rather you asked during that conversation why Mr. Andrade was not in the lint room be- [1215] cause that is where he had always been so far as you had observed, or something to that general effect.

Do you remember that? A. Yes.

Q. Can you give us that statement again, your statement to Mr. Robinson?

A. Well, I asked him why George wasn't in the lint room, that I knew he had been in there as far as I knew ever since he had been in there and he said, "Haven't you heard——"

Q. (Interrupting): Now, just a minute.

I move that that go out. I didn't ask for that. I asked him what his statement to Mr. Robinson was and if that is completed——

Trial Examiner Lindsay (Interrupting): Yes, that may go out.

Mr. Clark: May I have it read back, now?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark) How long had that been, please, Mr. Ely, that you had been at the plant and observed what Mr. Andrade was working at?

A. Since 1936.

(Testimony of L. E. Ely.)

Q. Yes.

Didn't you know that from the middle of July 1938 on up [1216] to the very time you were discussing this with Mr. Robinson that Mr. Andrade had been sewing sacks and had not been in the lint room?

A. I knew he swapped jobs with a fellow, temporary.

Q. You knew that he swapped jobs with Mr. Wingo, is that right? Was that it, Wingo; or am I incorrect in that?

A. Boyd Ely.

Q. With Boyd Ely. In other words, with your brother, isn't that right?

A. That is right.

Q. And you knew that Boyd Ely had gone into the lint room and that George Andrade had commenced sewing sacks along in the middle of the previous July, is that not correct?

A. That is right.

Q. I think you told us also that you were getting 35 cents an hour as a press helper up until some time in latter November of 1938. Was that your testimony?

Mr. Mouritsen: May I have the question read? I lost track of it.

Trial Examiner Lindsay: Yes. Read the question.

(The record referred to was read by the reporter, as set forth above.)

(Testimony of L. E. Ely.)

Mr. Clark: That is wrong. I will ask that it go out, Mr. Examiner.

Trial Examiner Lindsay: Yes. That may go out. [1217]

Mr. Clark: I misplaced a card here that I had.

Q. You were working as a press helper, weren't you, Mr. Ely, up until the last part of October of 1938?

A. Something like that. I don't exactly remember the exact date.

Q. Up until some point in the month of October of last fall, is that not correct?

A. Yes. [1218]

Q. All right.

And then you became the head pressman on this particular gin, is that correct? A. Yes.

Q. And for how long did you continue in that job, if you please, just as nearly as you remember?

A. About two weeks.

Q. And then when the man who had formerly held the head pressman's job came back to work, you resumed your position as press helper, is that correct? A. Yes.

Q. Now, it is true, isn't it, that while you were a press helper, you got 35 cents an hour?

Mr. Mouritsen: I object to that on the ground it is vague and indefinite. The witness, I believe, testified to two periods as a press helper, but he received different rates of pay.

Mr. Clark: I am only concerned with this last period, Mr. Examiner. I think the question is so limited—October of 1938.

(Testimony of L. E. Ely.)

Trial Examiner Lindsay: With that explanation, he may answer.

I would like to have the question read back.

Mr. Clark: I will reframe it, Mr. Examiner, because it is rather garbled now. [1219]

Q. Will you please tell us, Mr. Ely, whether or not you received 35 cents an hour as a press helper at the time you were working at that position in October of 1938, and immediately prior to your becoming the head pressman on that particular gin?

A. I was receiving 40.

Q. You are sure you were receiving 40 cents an hour as press helper just before you became head pressman?

A. Absolutely.

Q. All right.

And then do I understand that when you were working as head pressman, you still received 40 cents?

A. Yes.

Q. And then at the end of the two weeks period when the head pressman came back to work and took his position, you became press helper again, is that correct?

A. Yes.

Q. And then did you receive 35 cents an hour from that time on?

A. I did for one week. I only received one check at 35 cents per hour.

Mr. Clark: All right.

Trial Examiner Lindsay: Now, we have to adjourn—off the record.

(Discussion outside the record.) [1220]

Trial Examiner Lindsay: We will adjourn until 9:30 tomorrow morning.

(Whereupon, at 1:55 o'clock P. M., May 31, 1939, the hearing was adjourned to 9:30 o'clock A. M., Thursday, June 1, 1939.) [1221]

American Legion Hall,
Corcoran, California,
Thursday, June 1, 1939.
9:30 o'clock a. m. [1222]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Respondents are ready, Mr. Examiner.

Mr. Mouritsen: Ready for the Board.

Mr. Clark: May I have the last Exhibit number of the Boswell Exhibits, Mr. Examiner?

Trial Examiner Lindsay: Number 8, I am sure.

Mr. Clark: I think Mr. L. E. Ely was on the stand.

Mr. Mouritsen: Mr. Examiner, may the reporter note the appearance of William R. Walsh, Regional Attorney for the Twenty-first Region as counsel for the Board?

Trial Examiner Lindsay: Yes.

L. E. ELY,

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Cross Examination

(Continued)

Mr. Clark: At this time, Mr. Examiner, I will ask that four cards, which I am handing the reporter, being purportedly weekly time cards of the J. G. Boswell Company, be marked for identification as Respondent Boswell's Exhibit 9-A, B, C and D for identification.

(Thereupon, the documents above referred to were marked as Respondent Boswell Company's Exhibits Nos. 9-A, 9-B, 9-C and 9-D respectively for identification.)

(The documents referred to were passed to Mr. Mouritsen). [1224]

Q. (By Mr. Clark) Now, Mr. Ely, directing your attention to the time you returned to work at Boswell's in October of last fall, that is 1938, I will ask you whether or not you commenced work after that time on the day the oil mill opened, or commenced running?

A. I think I did.

Q. All right.

Now, I want to show you Respondent Boswell's Exhibit 9-A for identification, which is purportedly a weekly time card in your name for the week end-

(Testimony of L. E. Ely.)

ing October 27th, 1938, and first, let me ask you this question: I am correct in stating, am I not, that the week at Boswell's during the time you were working there ended on Thursday? A. Yes.

Q. Is that correct? A. Yes.

Q. All right.

Now, will you please examine this Exhibit, and particularly the entry under the letter "M", you see, and the rate of pay indicated opposite that entry, and tell us whether or not that refreshes your recollection as to the hourly rate of pay you received as a pressman's helper upon first going back to work at the mill in October of 1938?

A. (Examining document) My check was for 40 cents an hour.

Q. Well, was there anything indicated on your check to show [1225] that it was at a straight 40 cents an hour, so far as you remember?

A. Well, I always kept the amount of hours I worked, and I knew how much I was getting paid.

Mr. Mouritsen: May I ask a question on voir dire?

Mr. Clark: Yes, certainly.

Voir Dire Examination

Q. (By Mr. Mouritsen) Mr. Ely, do you make out these cards? Have you ever seen this card before that has been marked Respondent Boswell's 9-A for identification? A. No.

Q. And do you know—do you make them out yourself? A. Not like this.

(Testimony of L. E. Ely.)

Q. Well, do you make this particular card out that has been marked 9-A for identification?

A. No.

Q. And you have never seen it before?

A. No.

Q. You don't know who made these entries on the card at all? A. No.

Q. Any of them? You did not sign the card?

A. No.

Q. You don't know who put the initials down in the lower right-hand corner? A. No. [1226]

Q. Nor the figures on the right-hand side of the page, or the figures along the top of the page, is that correct?

A. I know nothing about it.

Mr. Mouritsen: That is all.

Cross Examination
(Continued)

Q. (By Mr. Clark) Now, you do know, don't you, Mr. Ely, that the letters "G. L. H." are Gordon Hammond's initials? A. I do.

Q. Yes.

And don't you also know that this card is in Mr. Gordon Hammond's handwriting? A. No.

Q. All right.

Do you keep some record, or did you while you were employed at the plant keep some record of your time each day which you handed in to Mr. Hammond or to the main office? A. Yes.

Q. And how was that kept by you, please, on a slip of paper? A. On a time card. [1227]

(Testimony of L. E. Ely.)

Q. On the time card? A. Yes.

Q. And then am I correct in stating that you handed your time card into the office at the end of the work day? A. Yes.

Q. All right.

And then I suppose on the next day you took the same card and made the same entry on it, or was it a new card?

A. It was a new card.

Q. All right.

So far as this particular card which I am showing you and which has been marked Respondent Boswell's 9(a), you didn't make that up?

A. No.

Q. All I am asking you, Mr. Ely, is whether or not an examination of the entries on this card which is marked Boswell's 9(a) for identification refreshes your recollection as to your status on the first day you returned to work on October 1938, and the rate of pay that you received on that day.

Mr. Mouritsen: I object to that as already asked and answered.

Trial Examiner Lindsay: Sustained; but off the record a moment.

(Here followed discussion off the record.)

Trial Examiner Lindsay: You may proceed. [1228]

Mr. Clark: The objection was sustained to the question.

Q. Do you remember the date—withdraw that.

(Testimony of L. E. Ely.)

I am correct in stating, am I not, Mr. Ely, that the exact date on which you returned to work at Boswell's during October 1938 was October 24th, the day the mill opened?

A. On or about that.

Q. All right.

And am I also correct in stating that you worked one day as pressman's helper?

A. I don't remember just how many days I worked as a helper.

Q. All right.

And then because of Mr. Briley's illness, you took the head pressman's job, is that right?

A. Yes.

Q. Now, I want also to show you the card which has been marked Respondent Boswell's 9(b) for identification, and I will ask you to examine it and direct your attention particularly to the entry under the letter "T" on that card and ask you whether that refreshes your recollection as to the date on which you went back to the job of pressman's helper?

A. (Examining card) I don't remember the exact date.

Q. Well, am I correct in stating that it was on or about November 3rd of 1938 that you resumed the position or status of pressman's helper?

A. Possibly on or about that date. [1229]

Q. And from that time on as I understand it you continued in that job until you left the company?

A. Yes, sir.

(Testimony of L. E. Ely.)

Q. And from that time on you received your pay at the rate of 35 cents an hour, is that true?

A. No.

Q. Well, what was your rate of pay from that time?

A. I received one check for 35 cents an hour and the last check I drewed was for 40 cents an hour after I talked to Tommy Hammond on Saturday.

Q. When was that, please?

A. On or about November 12th.

Q. Now, in that connection I will show you a card which has been marked Respondent Boswell's 9(d) for identification for the week ending—the time card for the week ending November 17th, and I will direct your attention to the rate of pay indicated on that card and ask you whether that refreshes your recollection with respect to the last answer you gave?

Mr. Mouritsen: May I ask one or two questions on voir dire?

Mr. Clark: So far as I am concerned.

Trial Examiner Lindsay: All right. [1230]

Voir Dire Examination

Q. (By Mr. Mouritsen) Have you ever seen this card before, Mr. Ely, that has been marked Respondent Boswell's 9-D for identification?

A. (Examining card) No.

Q. You don't know who put the figures on it, is that correct?

A. Yes.

(Testimony of L. E. Ely.)

Q. I mean, you don't know who put them on?

A. No, I don't.

Mr. Mouritsen: Well, I will object to the examination of the witness on such an Exhibit regarding the document about which he has no knowledge, and that he hasn't seen before.

Mr. Clark: I am not examining him on that Exhibit or document, Mr. Examiner. I am first giving him the opportunity to refresh his recollection, if he can, from an examination of the document, and then I am simply asking him questions from data I get from it.

Trial Examiner Lindsay: You may proceed.

Cross Examination

(Continued)

Q. (By Mr. Clark) Do you have the question in mind, Mr. Ely?

Trial Examiner Lindsay: Read the last question, please.

Mr. Clark: I will withdraw it and re-frame it, Mr. Examiner.

Q. Let me ask you, Mr. Ely, whether after looking at the card marked Respondent Boswell's 9-D for identification, your [1231] recollection is refreshed as to whether or not you only received one check at the wage rate of 35 cents per hour?

A. Yes, that is all; one check.

Q. Now, in that connection let me show you the card marked Respondent Boswell's 9-C for identi-

(Testimony of L. E. Ely.)

fication, which is purportedly the time card for the preceding week, namely November 10th, 1938, and I specifically direct your attention to the wage rate indicated on that card, and I will then ask you whether or not this card refreshes your recollection as to whether or not you only received one check at the wage rate of 35 cents an hour after you resumed the position of pressman's helper?

A. (Examining card) If November 10th was on Thursday, 1938—

Q. (Interrupting): Yes.

A. (Continuing) —well, it was on the 12th, the next Saturday, when I received my check, and that was for 35 cents per hour.

Q. All right.

Now, how about the following week which—in which Thursday was November 17th and for which you received your check on the following Saturday? Wasn't that also for 35 cents an hour?

A. No.

Q. You are sure of that?

A. Positive. [1232]

Q. All right.

And you are looking at Respondent Boswell's 9-D for identification when you make that statement; is that true? A. Yes.

Q. All right.

Now, did I understand on your direct examination, Mr. Ely, that you testified you left your employment on November 14th, 1938? A. Yes.

(Testimony of L. E. Ely.)

Q. How do you fix that date in your mind at this time?

A. Well, it is the day I went to see the doctor and he lanced my thumb. I won't forget that for a long time.

Q. You remember the specific date, do you?

A. I do.

Q. All right.

Let me show you again the card marked Respondent Boswell's Exhibit 9-D for identification, being purportedly your weekly time card for the week ending Thursday, November 17th, 1938, and specifically indicating or directing your attention to the entry under the letter "W", which would be November 16th, 1938, and I will ask you whether or not that refreshes your recollection as to the last day upon which you worked for Boswell and Company on the occasion of this period of employment?

A. (Examining card) I didn't receive my check until Saturday, [1233] and I think it was on November 14th—it was on a Monday or Tuesday of 1938, and I didn't receive my check for Friday and Saturday and that Monday's work until the next Saturday.

Q. Well, didn't you actually work two hours on Wednesday, November 16th?

A. No, that was on the 14th.

Q. All right.

And didn't you actually work ten hours on Tuesday, November 15th?

(Testimony of L. E. Ely.)

Mr. Mouritsen: I object to this examination on the ground it is for impeachment. It is impeachment on an immaterial point, the matter of two or three days.

Mr. Clark: I will submit it. I am just asking him the question.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) Do you have your question in mind?

A. November 14th, to the best of my recollection, was the last day I worked for J. G. Boswell Company. [1234]

Q. (By Mr. Clark) The thing I am asking you is this: Didn't you work ten hours for the company as pressman's helper on Tuesday, November 15, 1938?

Mr. Mouritsen: I will object to that as already asked and answered.

Mr. Clark: He didn't answer the question.

Mr. Mouritsen: If a man states he worked last on November 14th, he couldn't have gone to work on November 15th.

Mr. Clark: I would like to have an answer to the question. I didn't get it answered before.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Now, as a matter of fact, during this last week which you worked at Boswell's, Mr. Ely, you did some work loading cotton instead of as pressman's helper, is that not right?

A. I don't think so. I could possibly have done it.

(Testimony of L. E. Ely.)

Q. Do you remember working one 10-hour day at loading cotton instead of as a pressman's helper?

A. I don't remember.

Q. Now, directing your attention to the conversation which you said on your direct examination you had with Mr. Bill Robinson on October 22nd of 1938, let me ask you, Mr. Ely, how you fix that date in your mind?

A. Well, it was just a day or two or so after I went to work, or possibly the same day I went to work. [1235]

Q. Well, don't you remember it was two days before you went to work?

A. I said on or about October 22nd.

Q. I see.

Well, at the time you had this conversation with Mr. Bill Robinson the oil mill was not running, was it? It hadn't started up?

A. Yes; it started up the day I went to work, I think.

Mr. Clark: Now, may I have the question read back, Mr. Examiner. I don't think he understood it.

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I move that that go out as not responsive. I don't think that the witness caught the object of my question which was the time of the

(Testimony of L. E. Ely.)

Robinson conversation and not the date he started to work.

Mr. Mouritsen: I object to the question upon the ground it is confusing.

Mr. Clark: All right. I will withdraw it and reframe it.

Q. Let me ask you, Mr. Ely, whether it isn't a fact that at the time you had this conversation with Mr. Robinson, that is, Mr. Bill Robinson, on October 22nd of 1938, the oil mill had not yet started up for the season? [1236]

Mr. Mouritsen: I object upon the ground it assumes facts not in evidence and it is contrary to the prior statement of the witness. It is confusing and misleading.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) I think you told us a while ago that according to your best recollection the oil mill started up on the day you commenced work?

A. Yes.

Q. All right.

And do you now remember that the day you commenced working was October 24th?

A. No, I don't remember.

Q. All right.

Are you positive that the conversation you testified to on your direct examination with Mr. Bill Robinson took place on October 22nd?

A. On or about that date.

Q. All right.

(Testimony of L. E. Ely.)

Did that conversation take place a day or so before the oil mill started? A. No.

Q. Well, when did it take place with respect to the starting of the oil mill?

Mr. Mouritsen: I object to that as already asked and answered. [1237]

Mr. Clark: Well——

Trial Examiner Lindsay (Interrupting): He may answer.

The Witness: I started work the day the oil mill opened up and that was the date, to the best of my recollection, we had the conversation.

Mr. Clark: I see.

Q. So that if the oil mill started on October 24th, it wasn't the 22nd that you had this conversation with Robinson, was it?

A. It was on or about that date. I don't remember what day I started.

Q. How did you arrive in your own mind in fixing the date of October 22nd when you gave that testimony on direct examination?

A. Well, I just—I was down in Texas on vacation and I received a wire from my brother stating that the oil mill was going to start and for me to be there, so I came back and it was on the 15th day of October when I arrived here. It was about a week later before I went to work.

Q. And so did you, in going over your testimony preparatory to taking the stand in the case, just arbitrarily fix October 22nd as the date of this conversation?

(Testimony of L. E. Ely.)

Trial Examiner Lindsay: He didn't fix October 22nd. He said on or about.

Q. (By Mr. Clark) Who, if anyone, suggested the date [1238] October 22nd to you?

A. No one.

Q. You discussed your testimony with Mr. Mouritsen and Mr. McTernan prior to your going on the stand, didn't you?

A. Some of it, yes.

Q. And didn't you give these gentlemen a statement some weeks ago as to what you were going to testify to?

Mr. Mouritsen: That will be stipulated to.

Mr. Clark: Please let the witness answer. After all, it bears on his credibility.

May I have an answer? May I have the question answered?

Trial Examiner Lindsay: Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Is there an objection to that?

Mr. Clark: There is a stipulation that the statement was given.

Mr. Mouritsen: In what way does it bear on his credibility?

Mr. Clark: I will submit it.

Trial Examiner Lindsay: You may proceed. There is a stipulation as to the fact.

(Testimony of L. E. Ely.)

Mr. Clark: Very well.

Q. And did you likewise relate these events to which you testified yesterday on your direct examination to Mr. Mouritsen [1239] and Mr. McTernan as much as a month ago?

A. No, not that I remember.

Q. And, Mr. Ely, did you likewise relate the events to which you testified yesterday on your direct examination to Mr. Howard, an investigator for the National Labor Relations Board, when he was here in January of this year?

Mr. Walsh: I object to this line of inquiry upon the ground it is highly argumentative, not material to any of the issues being tried in this case.

Trial Examiner Lindsay: Sustained. I think we have gone far enough.

Mr. Clark: Very well.

Q. You were injured on or about the 6th of November of 1938, I believe you said? A. Yes.

Q. Did you report that injury to anyone at the plant immediately upon its occurrence?

Mr. Mouritsen: That is objected to as being incompetent, irrelevant and immaterial.

Mr. Clark: It was all gone into on direct examination. I certainly have a right to cross examine on it.

Trial Examiner Lindsay: You may proceed. You may have an exception.

Do you understand the question?

The Witness: I didn't report that day because

(Testimony of L. E. Ely.)

it was only a scratch. I didn't think it would amount to anything. [1240]

Q. (By Mr. Clark) Well, when did you report your injury to anyone, anyone employed at the Boswell plant?

A. I think it was on the 9th; on the 9th of November.

Q. I see.

Now, when was it that you ceased work pursuant to the doctor's order?

A. The 14th of November, 1938.

Q. Did you receive Workmen's Compensation—payments, rather, under the Workmen's Compensation Act of this State on account of that injury?

A. I received it for two days.

Q. How long?

A. Two days.

Q. And for what two days was that?

A. I don't know; somewhere between the 14th and the 2nd of December.

Q. I see.

Now, is that all the compensation you applied for? A. No; that is all I received.

Q. How did you go about applying for compensation? Did you do anything personally about it yourself? A. No.

Q. You simply left that up to the Company, is that right?

A. To the Company and the doctor.

(Testimony of L. E. Ely.)

Q. And your doctor's name is what, again? [1241]

A. Edmonds.

Q. Now, Mr. Ely, let me direct your attention to the times of your employment by the Boswell Company during the spring of 1938.

I am correct in stating, am I not, that you worked from early January, 1938, until on or about the week ending March 10th of 1938 at the Boswell plant? A. Yes.

Q. And what different jobs did you hold at that time, or did you work at during that time?

A. Well, I cleaned up the gins; swept the gin roof down, hauled sand, loaded cotton, hauled cotton and just first one thing and another that needed to be done.

Q. I see.

In other words, you did whatever odd jobs were necessary to be done around the plant, is that right?

A. Yes.

Q. Now, am I likewise correct in stating that you were laid off on or about the 10th of March, 1938? A. Yes.

Q. And when was it, if you remember, that you were again employed at Boswell's?

A. I am not positive, but I think it was in June.

Q. In June.

Well, wasn't it the week ending May 5th of '38? [1242]

A. It could have been. I don't remember.

Q. In other words, weren't you off about a

(Testimony of L. E. Ely.)

month and a half, that is, half of March and all of April? A. I think so.

Q. All right.

Now, assuming—withdraw that.

Irrespective of whether it was May or June, will you tell us about how long you worked on that occasion? A. Two weeks.

Q. I see.

And what kind of work did you do?

A. Chasing lint.

Q. And that was while the oil mill was running, wasn't it? A. Yes.

Q. And then you were laid off again, I take it?

A. Yes.

Q. Now, was it at that time that you took your trip back to your home in Texas? A. No.

Q. When were you next employed at Boswell's?

A. Either the latter part of June or in July. I don't remember.

Q. Well, wasn't it—didn't you go back to work at Boswell's on July 1st, 1938?

A. It could have been. I don't remember the date. [1243]

Q. All right.

And did you then work for the period of three weeks in July, about?

A. I don't remember just how long I worked.

Q. Well, were you laid off again toward the last of July? A. Possibly.

Q. For the period of a week?

(Testimony of L. E. Ely.)

A. I don't remember.

Q. All right.

What was your job at Boswell's during the period from on or about July 1st, 1938, to whenever it was that you were again laid off?

A. I was baling straw.

Q. Baling straw? A. Yes.

Q. And anything else that you were doing?

A. Not at that time.

Q. Now, where was it with respect to the cotton, or the cotton seed operation in the plant that you did this straw baling?

A. The Dallas schoolhouse between here and Hanford.

Q. In other words, that was not on the property we have all spoken of in this case as being the Boswell property, that is where the plant is, and the gins?

A. It is not their property that I know of. [1244]

Q. I think you misunderstood my question.

This straw baling you did was not at the plant where the gins are located here in Corcoran?

A. No.

Q. All right.

Do you remember how long you worked at straw baling?

A. No, I don't remember just how long I worked.

Q. Well, is three weeks about right?

A. It seemed like it was longer than that. I don't know.

(Testimony of L. E. Ely.)

Q. All right.

Now, when you were—you were ultimately laid off, weren't you? That job ultimately ran out, isn't that true?

A. The straw baling, yes.

Q. Then were you laid off for a short period of time? A. Yes.

Q. All right.

When were you next re-employed by Boswell's?

A. It was in October of 1938.

Q. Well, are you sure that you weren't re-employed for a period of a few days or a week in August of '38?

A. I don't remember. I could have been.

Q. All right.

You do remember being employed there in October, then? A. Yes.

Q. And that is the period—that is the time that you worked—[1245] from October, around the 24th of October of 1938, up until, as you testified, about the middle of November? Is that true?

A. Yes.

Q. During that time, you held a job as pressman's helper and also as the head pressman at one of the gins? A. Yes.

Q. And did you also do some loading of cotton at that time?

A. Well, I could have early in the morning before the cotton came in to the gin. I don't remember now.

(Testimony of L. E. Ely.)

Q. Well, did you work some short days during that period of time, that is, less than 12 hours?

A. I think so.

Q. And that was due, wasn't it, to their not being enough cotton for the gins to handle on those days?

A. That was on account of wet weather.

Q. I see.

Now, did you take a trip back to your home during the fall of 1938?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: It is preliminary. Withdraw it.

Q. Did you take a trip away from Corcoran or the State of California during the year '38, during the fall of '38? A. Yes.

Q. And when was that, please?

A. I left Corcoran on October 1st, 1938. [1246]

Q. October 1st? A. Yes.

Q. And where did you go? A. Texas.

Q. That is your home State, isn't it?

Mr. Mouritsen: Objected to as immaterial.

Mr. Clark: Submit it.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) Is that right?

A. Yes.

Q. All right.

How long were you gone?

A. Fifteen days until the time I returned.

Q. And while you were in Texas, did you write Mr. Gordon Hammond a letter asking for re-em-

(Testimony of L. E. Ely.)

ployment at the Boswell plant here? A. No.

Q. You are you sure of that? A. Positive.

Q. Did you get in touch with Mr. Hammond in any way while you were down in Texas requesting re-employment at the plant? A. No.

Q. How did you happen to come back to Corcoran?

A. Well, I just went down on a vacation. I didn't intend to stay. [1247]

Q. Well, did you do anything at all while you were down in Texas on this vacation, as you have described it, in an effort to gain re-employment or to get re-employment at the Boswell plant here in Corcoran? A. No. [1248]

Q. Did you receive word—I think you said on your cross examination a while ago that your brother wrote you the oil mill was about to start?

A. He wired me.

Q. I see.

And was that pursuant to some arrangement you had had with him before you went? A. No.

Q. In other words, you were down there in Texas and on a given day you got a wire from your brother to the effect that the mill was going to start up here at Boswell's, is that true? A. Yes.

Q. And then didn't you get ahold of Mr. Gordon Hammond by either letter or wire? A. No.

Q. Did you simply come back to Corcoran?

A. Yes.

Q. And then did you go and apply to Mr. Gordon Hammond for a job? A. Yes.

(Testimony of L. E. Ely.)

Q. And where did you see him, please?

A. It was down in the plant somewhere. I think it was either Gordon or Tommy. I don't remember which.

Q. You have no recollection as to who it was as between [1249] Gordon and Tommy, isn't that true?

A. Yes.

Q. As a matter of fact, you know it was Gordon?

A. I am not positive.

Mr. Mouritsen: Objected to as argumentative.

Q. (By Mr. Clark) You applied for the job?

A. Yes; at that time, yes.

Q. And you were given a job?

A. About a week later.

Q. When was it you left again for Texas?

Mr. Mouritsen: This is objected to as asked and answered.

Trial Examiner Lindsay: Sustained. You have gone over that.

Mr. Clark: I would like to clear it up, Mr. Examiner. I think I can do it this way:

Q. Will you fix for us as nearly as you can, Mr. Ely, when it was you applied for a job at Boswell's on this occasion, that is, during October, 1938?

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained. You may proceed.

Mr. Clark: That is all. I will take the ruling on that. [1250]

Trial Examiner Lindsay: Do you want this witness any more?

Mr. Mouritsen: No, he may be excused, Mr. Examiner, so far as the Board is concerned.

(Witness excused.)

Mr. Mouritsen: Mr. Examiner, at this time we propose to call the witness Gilmore, and that is if counsel for the respondent would desire to file the answer for that.

Mr. Clark: We would, Mr. Examiner, if we may have a moment to glance through it.

Trial Examiner Lindsay: Yes.

Mr. Clark: May the record show, Mr. Examiner, that I am handing counsel for the Board one copy of the answer, likewise Mr. Prior one copy; this being the answer of the Associated Farmers of Kings County.

Mr. Walsh: Off the record.

Trial Examiner Lindsay: Off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record.

Mr. Clark: I would like the record to show I am handing the Examiner the original and three copies of the answer of the Associated Farmers of Kings County to the amendment to the amended complaint.

May this be off the record, Mr. Examiner, and Mr. Walsh? [1251]

Trial Examiner Lindsay: Off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record.

Mr. Walsh: May we have a five-minute recess?

Trial Examiner Lindsay: Yes, we will take a ten-minute recess.

(At this point a short recess was taken, after which the hearing proceeded as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Wingrove: Mr. Examiner, at this time I hand you an original and three copies of the answer of the respondent J. G. Boswell to paragraph 8 of the amended complaint as amended.

I also hand you for filing the original and three copies of the answer of the respondent Corcoran Telephone Exchange to paragraph 8 of the amendment as amended, and the original shows that each of the copies was filed on the parties to the proceeding.

Unfortunately, I didn't make a copy for the respondent on the other side, but I understand that the copy goes to them.

Mr. Clark: May I ask that the original answer of the Associated Farmers of Kings County to the amendment to the amended complaint which has been just offered for filing be likewise marked as an exhibit immediately following the last [1252] number in the formal file?

Trial Examiner Lindsay: Yes.

Mr. Walsh: I think it would be probably appropriate to offer these as part of the formal papers at this time.

Mr. Clark: I want this marked, say, (A), the last letter of the number, so it will come in order there.

Trial Examiner Lindsay: Yes. They will become part of the Board's Exhibit, which is the formal exhibit. I believe the last is, as I recall it, double J. Therefore, it will follow that these will be marked as the next letter.

Mr. Walsh: I think probably at this time I should offer in evidence as Board's Exhibit 1-KK the answer of the Associated Farmers of Kings County, Inc., to the amendment to the amended complaint. That would be 1-KK.

And offering as 1-LL the answer of the respondent Corcoran Telephone Exchange to paragraph 8 of the amended complaint as amended.

And 1-MM, the answer of the respondent J. G. Boswell Company to paragraph 8 of the amended complaint as amended.

Do you have copies?

Trial Examiner Lindsay: I have copies of one of them.

Mr. Walsh: Here is the Boswell and here is the Exchange. Which ones don't you have, if any?

Trial Examiner Lindsay: The Farmers' Association.

Mr. Walsh: All right. [1253]

(The document referred to was passed to
Trial Examiner Lindsay.)

Trial Examiner Lindsay: That is the one I don't have, and this one I do have. (Indicating)

As part of Board's Exhibit, formal exhibit, KK, LL, MM, are received in evidence.

(Thereupon the documents above referred to were received in evidence and marked Board's Exhibits 1(KK), 1(LL), and 1(MM).)
Mr. Mouritsen: Mr. Gilmore.

JAMES WILLIAM GILMORE,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

(At this point the testimony of the witness James William Gilmore as given May 25, 1939, was read by Mr. McTernan, as follows:)

“Direct Examination

“Q. (By Mr. McTernan) Will you state your name and address for the record, please?

“A. James William Gilmore.

“Q. And your address?

“A. Box 203, Corcoran. [1254]

“Q. (By Mr. McTernan) Were you ever employed by the J. G. Boswell Company?

“A. I was.

“Q. When were you first employed?

“A. In July, 1928.

“Q. I see.

“How long were you employed starting in July, 1928?

(Testimony of James William Gilmore.)

“A. Well, I worked for them up until July, I believe, in '30.

“Q. July in '30.

“Was that right straight through without any breaks?

“A. Practically. Maybe a week or something like that.

“Q. Then you left there in July, 1930, you stated? A. I did.

“Q. And did you ever come back again to the Company?

“A. In '31, some time in September.

“Q. And how long did you work, starting in September, 1931, for the J. G. Boswell Company?

“A. Practically ever since that time up until this last year.

“Q. Up until this last year.

“Can you place that more definitely?

“A. Well, it was one or two summers there that I think we were off. There wasn't nothing to do.

“Q. I didn't mean that, Mr. Gilmore. [1255]

“You said you worked up until—

“A. (Interrupting): Oh, until '38.

“Q. When in 1938?

“A. I think the mill shut down somewhere in the latter part of March or the first of April. I don't recall the exact time.

“Q. All right.

(Testimony of James William Gilmore.)

“Now, go back again starting with 1931 in September when you went back to work. At what type of work were you employed?”

“A. Well, I was working in the lint room. Part of the time I was running linters and part of the time I was working at what they call chasing lint.

“Q. How long did that last?”

“A. I worked in there until I think I went in the seed house in '36.

“Q. You worked in the lint room until 1936? A. Yes, sir.

“Q. Can you place that more definitely in 1936?”

“A. Well, now, I can't get the date on it, no.

“Q. An approximation?”

“A. It was some time along after the gin season started in '36 that I went into the seed house.

“Q. And how long did you stay in the seed house?”

“A. Up until we got through running this last season [1256] in '38.

“Q. That is, you testified in the spring of 1938? A. Yes.

“Q. Were you in the seed house or the lint room during those periods you testified to for the whole period? Were there any breaks? Any other type of work you did?”

(Testimony of James William Gilmore.)

“A. Well, sometimes when the mill wasn’t running we would repair. We would paint, clean up. Sometimes we would cut weeds, first one thing and then another.

“Q. When you refer to the mill, what do you refer to? A. The oil mill.

“Q. The oil mill? A. Yes.

“Q. When the oil mill wasn’t running, you were doing odd jobs around the plant?

“A. Yes.

“Q. And you were steadily employed then for the last four years up until 1938 in the spring?

“A. The last two or three years I was. In the last part of ’37, I painted. I was painting up until the mill started again.

“Q. Well, now, prior to the time you left the employ of the J. G. Boswell Company in the spring of 1938, did you engage in any Union activities? A. I did. [1257]

“Q. Of what did they consist?

“A. Well, the first thing I started to do was trying to organize a Union.

“Q. Wait a minute.

“Can you place that by date or month?

“A. I can’t, because I——

“Q. (Interrupting): Or year?

“A. It was in ’38.

“Q. 1938?

“A. But in the spring. I didn’t keep any dates.

(Testimony of James William Gilmore.)

“Q. That was before you were laid off?”

“A. Yes.

“Q. Go on.

“A. And I talked to the boys, a majority of the boys about that even when I was working there.

“Q. Can you mention any names of the people you talked to?”

“A. Why, I talked to Lonnie Spear for one; and I talked to George Andrade, I believe they pronounce it; and Dick White, and I also think I talked to Workman that runs the engine.

“Q. You say a workman?”

“A. Workman. That is his last name.

“Q. A man named Workman?”

“A. Yes, sir. [1258]

“I talked to all of the boys that I wasn’t afraid of.

“Q. What do you mean “you weren’t afraid of?””

“A. That I wasn’t afraid that they would tell the bosses.

“Q. I see.

“You say that took place in the spring of 1938 before you were laid off?”

“A. Yes, it did, along—I started talking to them along in January.

“Q. I see.

“Well, did you do any other organizational

(Testimony of James William Gilmore.)

activities or any activity on behalf of any Union after that time?"

Mr. Clark: That is all there down to line 20 on page 8. You might ask him that question now.

Q. (By Mr. McTernan): Did you hear that last question I read? A. I think I did.

Q. Will you answer it?

A. Yes, I did quite a bit more after that.

Q. Well, could you describe it more definitely?

A. Well, I was down there sometimes two or three times a week all through the summer, and even after we had the Union started I was talking to the boys.

Q. Did you do anything other than talk to the boys?

A. Now, what do you mean? In what way?

Q. Well, did you sign any of them up? [1259]

A. No. I never did sign a one of them up.

Q. Did you ever ask any of them to sign up?

A. I asked them to come to the meetings and hear what it was all about, and what the meanings of it were.

Q. That was the full extent of your Union activity?

A. Yes. I didn't sign any of them up.

Q. You just testified that you did it after the Union started?

A. Yes, after we had the Union started I would go down to the mill sometimes two or three weeks——

(Testimony of James William Gilmore.)

Q. (Interrupting): What was the date? Can you place that date?

A. I didn't keep any dates. It was along through the summer I would go down two or three times a week.

Q. When the Union started, at what time do you place that?

A. What I mean is after they got them started signed up, but the date I couldn't tell you, any dates, because I never paid any attention to the dates.

“Q. Did you ever have any conversation with Mr. Gordon Hammond?”

“A. Yes, I did.

“Q. In the year 1938? A. I did.

“Q. Well, when was the first conversation, or what was the—when was the first conversation you had with Mr. Gordon [1260] Hammond in 1938?”

“A. It was some time the latter—along in June, I think it was, as near as I can give it to you.

“Q. In June of 1938? A. Yes.

“Q. That is the closest you can come.

“What did you say to Mr. Hammond and what did Mr. Hammond say to you?”

Mr. Clark: This is off the record, Mr. Examiner.

(Discussion outside the record.)

Mr. McTernan:

“Mr. McTernan: Well, I withdraw my last

(Testimony of James William Gilmore.)

question and will place the foundation a little more.

“Q. Was anybody else present at this conversation, Mr. Gilmore?”

“A. They were not.

“Q. Where was this conversation held?”

“A. The South end of the mill.

“Q. At the South end of the mill?”

“A. Yes.

“Q. What mill?”

“A. The oil mill of J. G. Boswell.

“Q. All right.

“Now, I will ask you what you said to him, and what he said to you?”

“A. Well, he walked up and spoke to me——” [1261]

Mr. Clark: That goes down——

Mr. McTernan (Interrupting): Over to the next page.

“And I asked him what he knew. And he says, ‘About as much as you.’

“I says, ‘That is practically nothing.’

“He said, ‘I thought——’

“He says, ‘I thought you knew quite a bit about trying to start a union.’”

Mr. Clark: “I thought you knew quite a bit by trying to start a union.”

Mr. McTernan: “I says, ‘Who said anything about me starting a union?’

“He says, ‘Things get around quite a bit,’ he says. He says, ‘Things get around.’

(Testimony of James William Gilmore.)

“Q. Is that all that was said?

“A. And he wanted to know if I had them all signed up.

“I says, ‘I think I have only about half of them, but I will get all of them before I get through.’

“And he says, ‘I think you will if you keep sneaking around.’

“And I says, ‘I am not sneaking around.’ I says, ‘I will sign you up with the union if you want to come in.’

“Q. Is that all that took place?

“He laughed and walked off and left me.

“Q. After that time did you ever have any further con- [1262] versation with Gordon Hammond? A. Once more.

“Q. When did that take place?

“A. Well, that was after the mill started some time in July.

“Q. 1938? A. 1938.

“Q. And where was this conversation held?

“A. It was held between the main office and the scales office of the J. G. Boswell Company.

“Q. Who was the conversation held with?

“A. G. L. Hammond.

“Q. G. L.?

“A. No. Gordon Hammond.

“Q. Well, will you state what he said to you and what you said to him?

(Testimony of James William Gilmore.)

“A. Yes. I asked him if my work had been satisfactory and he said it had; and I asked him why there wasn’t any work for me. And he said there wasn’t anything for me to do.

“And I asked him if there was any work for me and he said there wasn’t anything to do.

“And I asked him if it was because of the union and he said, ‘I wouldn’t exactly say that it is.’

“And I asked him if he thought I was in with the union. And he said, ‘I have heard you were, but I don’t believe every- [1263] thing I hear.’

“Q. (By Mr. McTernan): Now, did you ever have any conversation, Mr. Gilmore, with any of the other Hammonds?

“A. Julius.

“Q. Who was Julius Hammond?

“A. He was the mill foreman that we took orders under at that time.

“Q. You were taking orders from him?

“A. At that time, yes.

“Q. Wait a minute. Let us place this conversation.

“When did this conversation take place?

“A. Well, it was, I think, something around the 1st of July, just before the mill started.

“Q. Before the mill started, you say?

“A. Yes.

(Testimony of James William Gilmore.)

“Q. Well, you weren’t taking orders from him at that time, were you?

“A. I wasn’t working there then, but he was the foreman.

“Q. When you had worked there you say you had taken orders from him?

“A. Yes.

“Q. What kind of orders?

“A. Well, if the mill wasn’t running or anything, even if the mill was running and there was something he wanted you to do, he would come around and tell you to do it.[1264]

“Q. Did you ever go to him to get a job?

“A. Well, several times when we would be shut down I would go if we were off—I would go and find out when we were going to start back to work and what he intended for me to do that season.

“Q. I see.

“Now, this conversation that you spoke of with Mr. Julius Hammond, where did that take place?

“A. In the machine shop at the J. G. Boswell Company.

“Q. And could you give the date of that, or as close an approximation as possible?

“A. Oh, it was a day or so before the mill started and around about the 1st of July of ’38.

“Q. Pardon me?

“A. Around about the 1st of July of ’38.

“Q. Was anyone else present?

(Testimony of James William Gilmore.)

“A. No, not anyone that was close to us. There was a bunch working there, first one thing and another, machinists working, but there wasn’t anyone close to where we were.

“Q. Well, what did he say to you and what did you say to him?”

Mr. Clark: To which we object, Mr. Examiner, upon the ground that the question calls for hearsay, and is not binding on any of the Respondents to this proceeding in as much as there is no authority established from Boswell Company to Mr. [1265] Tom Hammond—it is Julius Hammond—to Julius Hammond to speak for the Respondent with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

[1266]

Mr. McTernan:

“The Witness: He asked me what I was going to do for a job. I says, ‘What do you mean?’

“He said, ‘We haven’t anything more to do.’

“I said, ‘Well, I suppose I will do what I have since the mill shut down.’”

Q. (By Mr. McTernan): Mr. Gilmore, do you recall anything further of that last conversation?

A. You mean with Julius?

Q. With Julius Hammond, yes.

Mr. Clark: May I have the last question, please?

(Testimony of James William Gilmore.)

Trial Examiner Lindsay: Yes. Read the last question.

(The record referred to was read by the reporter as set forth above.)

Q. (By Mr. McTernan: I believe you testified, Mr. Gilmore, that you worked up until March 19th for the Boswell Company? A. I did.

Q. Now, have you worked for them since that time?

A. Yes. I think I worked two or three weeks in May.

Q. What was—what type of work did you do?

A. In the seed house. We were running planting seed.

Q. What were your wages, Mr. Gilmore, when you worked for the company during 1937 and 1938? A. 35 cents.

Q. And what hours did you work? [1267]

A. 12.

Q. Did you ever receive any complaints about your work?

A. Not that I have any recalling of; no.

Q. Did you ever receive any compliments upon your work? A. No.

Q. Are you a member of the Union herein involved? A. I am.

Q. When did you join that?

A. Well, now, I can't even tell you the dates on that.

Q. Well, was it the summer of 1938?

A. Yes—no—let us see——(Pause.)

(Testimony of James William Gilmore.)

Q. The fall?

A. Well, I can't tell you. I can't tell you. The only way you can find out is to look at the applications and all, because I don't remember any dates on any of it.

Q. Since May 1938 have you been employed at all? A. Yes, I have this winter.

Q. How long?

A. Well, something around 6 months, I think; close on to it; maybe not exactly that long a time.

Q. Where did you work?

A. Union High School in Corcoran.

Q. Could you tell us how much you earned in that period?

A. Yes, sir; because I went up and had the bookkeeper to look it up for me. I earned \$488.90.

Q. Have you earned any other money from May 1938 to the [1268] present date?

A. No, I haven't.

Q. If the National Labor Relations Board should order your reinstatement with back pay, Mr. Gilmore, would you be willing to accept work with the J. G. Boswell Company?

A. Yes, I would.

Mr. McTernan: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Gilmore, what kind of work was it you did on the Union High School?

A. I were helping carpenters.

Q. A carpenter's helper? A. Yes.

(Testimony of James William Gilmore.)

Q. And do I understand that you have been employed in that capacity steadily for the past six months?

A. No, not steadily, because sometimes we wouldn't have anything to do. That was off and on.

Q. I see.

But over the period of the last six months, is that right? A. Yes.

Q. Now, when was it that you first went to work for Boswell's? A. In 1928, in July.

Q. And what had been your occupation prior to that time? [1269]

A. Well, sir, when I first went there I done some ginning; I tied out; I worked at——

Q. (Interrupting): I mean before you ever went to Boswell's.

A. Oh, before I went to Boswell?

Q. Yes.

A. I had been working at gins and oil mills ever since I was 13 years old, if that covers it.

Q. In this state?

A. In this state and out of the state, yes.

Q. Well, where did you work out of the state?

Mr. McTernan: I object to that, Mr. Examiner——

Mr. Clark (Interrupting): Withdraw it.

Q. Where did you work in this state, Mr. Gilmore, just prior to the time you went to work for Boswell?

Mr. McTernan: I object to that, Mr. Examiner; incompetent, irrelevant and immaterial.

(Testimony of James William Gilmore.)

Mr. Clark: I will submit that.

Trial Examiner Lindsay: Well, he may answer.

The Witness: Well, I used to gin for the Globe Mill Company in El Centro—Brawley. I worked for J. A. Harris in Brawley.

Q. (By Mr. Clark) Imperial County?

A. Yes.

Q. And was that the job you held just before you came up here and went to work for Boswell? [1270]

A. Well, not, not just before because it was in the summer and we had nothing down there to do. I was out on—I wasn't doing practically anything then. I was out in Indio, in the Coachella Valley.

Q. What were you doing up there?

A. I was working on a truck there then.

Q. I see.

So far as the job in any cotton gin or cotton-seed oil mill is concerned, do I understand that the one that you held just before you came to work for Boswell's was this down at Brawley.

A. Imperial.

Q. Imperial County? A. Yes.

Q. And what was the name of that firm again?

A. I worked for J. A. Harris then.

Q. Would that be the summer and early fall of 1928?

A. No, I don't think—I think when I worked for them last I worked in the cotton mills, I be-

(Testimony of James William Gilmore.)

lieve, for Harris—I wouldn't recall whether it was '21 or '22.

Q. Well, the thing I am after is this, just briefly: Did you work around cotton gins or in any cottonseed oil mill at all in the year 1927?

A. No.

Mr. McTernan: I object to that on the ground it is too [1271] remote.

Mr. Clark: It is answered. I am going to abandon it there if the answer may stay.

Trial Examiner Lindsay: The answer may stay in. Proceed.

Mr. Clark: All right.

Q. How long did you work for Boswell in 1928?

A. Well, I worked for them, that is, practically all the work I did until I left here in '30; maybe a week or so, two weeks, something like that. I worked for them all the rest of the time.

Q. Well, do you mean you worked for the Boswell Company in 1928? A. Yes.

Q. Which is what we are talking about, and you mean up until 1930 all the time except for a few weeks? A. Yes, sir.

Q. Well, as a matter of fact, Mr. Gilmore, weren't you laid off all during the summer?

A. No, sir, I was not. We went to McFarland and built a gin in '39.

Q. I am talking about '28.

A. '28—I didn't start in until July and we worked clear on through. How could I be laid

(Testimony of James William Gilmore.)

off all the summer when I didn't start until July? [1272]

Q. Well, let us talk about the summer of 1929.

A. Sure, go to it.

Q. Weren't you laid off during the early spring or summer of '29?

A. No, not that I know anything about, only for maybe a week or two, something or other like that.

Q. Well, what year was it, or years, Mr. Gilmore, if any, that you worked in the fruit and vegetables over at Salinas during the summer time?

A. That was in '30.

Q. That was in '30?

A. Yes, in the fall of '30 after I left Boswell's and in the spring of '31.

Q. Now, you were getting 30 cents an hour at Boswell's on this first occasion of your employment there, weren't you?

A. No, sir—when, now?

Q. '28.

A. No. I was getting \$150 a month.

Q. And what was your position, please?

A. Well, I done some ginning there. I tied out. I fed the suction, anything that came up.

Q. And did you also help build this gin that you were telling us about? A. Yes, sir.

Q. And then what time was it in 1930 that you left Boswell's [1273] so far as that period of employment is concerned?

(Testimony of James William Gilmore.)

A. Some time in July, as well as I remember; after the 4th; sometimes after the 4th of July.

Q. And then you went down and worked in the fruit and vegetables at Salinas, is that right?

A. Well, no. I didn't go and work in the fruit and vegetables at Salinas at all. I didn't even go to Salinas.

Q. I understood you did.

A. I worked in the fruit.

Q. In the fruit? A. Yes.

Q. Where was that?

A. I worked at San Jose. I worked in cold storage. I went over to Monterey and worked in the fruit canneries and I also worked on the highway over there.

Q. And for how long a period did you do that work? A. Which work?

Q. How long was it before you came back to Boswell's? A. I came back in '31.

Q. And what time in '31?

A. Sometimes in September. I don't know the date.

Q. I see.

Now, when you came back there in 1931, what job were you put at at Boswell?

A. Helping put up the oil mill after the fire they had [1274] there that burned it down.

Q. And you were getting 30 cents an hour then?

A. Yes.

Q. How long did you work there on that occasion?

(Testimony of James William Gilmore.)

A. Well, I have been there practically—all the work I have done since that time has been for the Boswell Company.

Q. Well, here is what I am driving at, Mr. Gilmore. Isn't it a fact that each year since 1931, and up until the early part of 1938, you were laid off for several months? A. No.

Q. From your employment at Boswell's?

A. No, no; not for several months. Sometimes we would grind barley, we would grind cake for feed through the summer months.

Q. In other words, sometimes you were put at odd jobs, is that right? A. Yes.

Q. Were there periods during that time, however, namely, from 1931 up until March of '38 during which you were laid off?

A. Well, right during the depression there were, yes. They were all laid off. Even Mr. Hammond went out and run a ranch.

Q. Which Mr. Hammond is that?

A. Mr. Gordon Hammond; went out and took charge of a ranch, [1275] overseeing.

Q. Were you laid off in 1937?

A. I think I was off in '37 two weeks taking a vacation to Oregon.

Q. And you got 30 cents an hour during all of '37, didn't you?

A. I think in the fall of '37 they raised us to 35, as well as I remember—maybe before that. I don't remember the dates or exactly what time.

(Testimony of James William Gilmore.)

Q. What part of 1936 did you work, if you remember? A. In '36?

Q. Yes.

A. I worked practically all the time but about three weeks in the summer.

Q. Well now, in '36 did you work around Salinas in the fruit and vegetables?

A. No, I did not.

Q. How about '35? A. I did not.

Q. Or '34? A. I did not.

Q. Or '33?

A. I did not. I never have done any work around Salinas in the vegetables.

Q. Well, let us put it this way: You told us in 1931, I [1276] think you said—

A. (Interrupting): Yes.

Q. (Continuing) —or late 1930 or up to '31, if I can remember the record correctly, you had a job around San Jose in fruit.

A. In the cold storage.

Q. In the cold storage.

Were there any jobs from that time on up to the first of the year, 1938, which you held with people other than Boswell?

A. No, sir;—only those two.

Q. Now, what two are you referring to, so we can get it clear?

A. In the fall or summer after I left Boswell's in '30, I worked a month or two in San Jose in

(Testimony of James William Gilmore.)

the Cold Storage, and that fall I went to Monterey and worked in the fish cannery; and in '31 in September some time—I don't know the date—I came back and went to work for J. G. Boswell Company, and that is the only work I have done since that time until this only on this school house.

Q. All right.

Now, didn't you either obtain the promise of or have some dealing for a job up in Oregon in the early part of 1938?

A. No, sir. I went up to visit my brother in '38, but I [1277] had no jobs or anything up there. I went up just merely to visit my brother I have up there and I also went up two weeks in '37; and I got a lay-off of two weeks from Mr. Gordon Hammond to go and visit my brother in Oregon.

Q. All right.

Now, did you have a conversation with Mr. Gordon Hammond in the month of May 1938 concerning your going up to Oregon?

A. In '38?

Q. In '38.

A. I should say I didn't. Why should I, because I just worked three weeks there and was out of a job, so why should I have a conversation with Mr. Gordon Hammond about going?

Q. Did you have any conversation at all with Mr. Gordon Hammond in '38? A. Yes.

Q. Just a minute.

About your going up to Oregon and getting a job there? A. No.

(Testimony of James William Gilmore.)

Q. Did you state in substance or effect to Mr. Gordon Hammond in May 1938 that you had a job in Oregon? A. I did not.

Q. Just a minute.

That you had a job in Oregon to which you were going as soon as the mill closed?

A. I did not, because I have had no jobs in Oregon, and I [1278] haven't stated it to anyone.

Q. Did you make any statement to that general effect to Mr. Gordon Hammond at that time?

A. No, I didn't.

Q. Did you state in substance or effect to Mr. Gordon Hammond during the month of May 1938 that you didn't think you would work in the mill any more because you couldn't stand the dust?

A. No, I did not.

Q. Did you have any conversation with Mr. Hammond along those general lines at that time?

A. No, I did not. [1279]

Q. Do I understand that you didn't have this conversation at any other time with him?

A. Not on the working in Oregon and not that I couldn't stand the dust, no.

Q. All right.

Will you please tell us, Mr. Gilmore, who—strike that.

Will you please tell us whether you stated in substance or effect to Mr. Gordon Hammond on or about May 17th, 1938, at the time you received

(Testimony of James William Gilmore.)

a check for your work at the Boswell plant, that you had a job in Oregon paying \$6.00 a day, and that you were going there? A. I did not.

Mr. McTernan: I object, your Honor, on the ground that has already been asked and answered.

Mr. Clark: This is a more specific statement and a different statement.

The Witness: It is a different statement, and I didn't tell him I had a job in Oregon, because I didn't have a job and I didn't have a chance of any.

Q. (By Mr. Clark) Did you mention to Mr. Gordon Hammond of a job in Oregon which would pay you \$6.00 a day? A. No, I did not.

Q. Have you ever applied for work in the Boswell plant since May, 1938? A. No. [1280]

Q. Did you have a conversation with Mr. Gordon Hammond on or about July 14th of 1938 at which time you borrowed a truck from him for the purpose of moving?

A. Never had no conversation with him. I borrowed a trailer from him sometime during that time, but there wasn't any conversation. I just asked him if he would let me have a trailer to haul some stuff, but there wasn't any conversation to it.

Q. Did you tell him at that time you were moving to Tulare? A. No, I didn't.

Q. Did you state to Mr. Gordon Hammond your reason for wanting to borrow the truck?

A. Yes, I may have did that, because I was out

(Testimony of James William Gilmore.)

of work and I couldn't pay house rent and I stored my stuff with a friend of mine.

Q. What reason did you state to Mr. Gordon Hammond for wanting to borrow the truck?

A. To move my stuff out of the house I was living at at the time.

Q. Did you tell him where you were going to move the stuff?

A. I didn't tell him—I don't think I did. I was going to move it only a couple of blocks, still here in town.

Q. Will you tell us whether or not on July 14th, 1938, you stated in substance or effect to Mr. Gordon Hammond that you wanted to borrow the truck in order to move your belongings to [1281] Tulare?

A. No, I went back once before—once after that and borrowed the same trailer to move my daughter's stuff and son-in-law's stuff to Tulare. That is what you are getting at now.

Q. Was that a later time than July 14th?

A. Yes.

Q. Did you talk to Mr. Gordon Hammond on this later occasion?

A. No, nothing; only to borrow a truck, that I wanted to move my daughter's stuff to Tulare. They was moving there.

Q. When was that?

A. I can't tell you. I can't carry an open book around when I borrow a trailer and put the dates down.

(Testimony of James William Gilmore.)

Q. Can't you fix it for us generally within the space of one month?

A. It was just the one day I was going to move the stuff to Tulare. I went down and wanted to borrow a trailer. What day it was, I don't know. I don't know what day of the week it was, because I don't pay any attention to it.

Q. It was after this first conversation at which you borrowed the trailer; is that correct?

A. Yes, I borrowed a trailer from him twice.

Q. On either of those occasions, did you ask Mr. Gordon Hammond for any work?

A. No. [1282]

Redirect Examination

Q. (By Mr. McTernan) Mr. Gilmore, are you working now? A. No.

Q. When did you last work on this high school?

A. I believe it has been about three weeks, as well as I remember. I don't know what date it was that I got laid off; two or three weeks.

Q. Well, this time you borrowed the trailer from Mr. Gordon Hammond you testified you didn't ask him for work. Why didn't you ask him? You were out of a job, weren't you?

A. Yes, I was out of a job, but why should I ask him for a job?

Mr. Clark: I object to that, may it please your Honor, and ask that it go out as not responsive, "why should I."

Trial Examiner Lindsay: He may tell why he did not.

(Testimony of James William Gilmore.)

It may go out.

The Witness: Because Julius had done told me they didn't have any more work for me, and I am not in the habit of begging a man for work when they come right out and tell me there is nothing else for me to do.

Mr. McTernan: That is all.

Recross Examination

Q. (By Mr. Clark) You didn't have any compunction about borrowing the truck a couple of times, did you?

A. No, borrowing a truck and asking for a job is two differ- [1283] ent propositions altogether, but it wasn't a truck, it was a four-wheel trailer.

Mr. McTernan: That is all. [1284]

Q. (By Mr. Clark) As a matter of fact, various employees of the Boswell Company and Mr. Gordon Hammond and Mr. Louis Robinson have loaned you money, haven't they?

A. No, they never did loan me money. They let me draw on what I had coming before payday but they never loaned me money that I can recall.

Q. They brought food to your house?

A. Not that I know about. If they did, it is all news to me; and I don't think they would bring food to anybody's house.

Mr. Clark: That is all.

(Witness excused.)

Mr. Mouritsen: Call Steve Griffin.

STEPHEN J. GRIFFIN

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Will you state your name, please? A. Stephen J. Griffin.

Q. And where do you reside, Mr. Griffin?

A. At Hanford.

Q. California? A. Yes, sir. [1285]

Q. Have you ever been employed by the J. G. Boswell Company in Corcoran, California?

A. Yes, sir.

Q. When were you first so employed?

A. In August, 1932.

Q. What type of work did you first do for the company? A. Hauled hay.

Q. What rate of pay did you receive?

A. 20 cents an hour.

Q. And what hours did you work per day?

A. I worked from 10 to 16 hours.

Q. How long did you continue to haul hay for the company at that time?

A. A short time.

Q. Well, is there any way you can fix that more definitely by weeks or months?

A. Well, something like two weeks.

Q. And then what other types of work?

A. I went to helping feed cattle.

Q. From 1933 to 1936 did you work more or less continuously for the company?

(Testimony of Stephen J. Griffin.)

A. Yes, sir.

Q. Doing different types of work?

A. Doing different types of work.

Q. Yes. [1286]

During that period from 1933 to 1936 was your pay increased at all?

A. It was increased from 20 cents to 40. The last job I had was 40 cents.

Q. Yes.

Now, during the year 1936 did your type of work change? A. Yes, sir.

Q. What type of work did you undertake during the year 1936?

A. In May 1936 I bought a hay baler from Boswell Company and they financed me on it; and I baled their hay for three seasons.

Q. Did you bale Boswell's hay alone during those three seasons?

A. Mostly. When I would have a day or two off that I wasn't busy on their work I baled others when I could get the job.

Trial Examiner Lindsay: Just a moment.

Will you gentlemen come up here?

(Conference between the Trial Examiner and counsel.)

Trial Examiner Lindsay: Off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record.

We will have a short recess, a ten-minute recess.

(Testimony of Stephen J. Griffin.)

(At this point a short recess was taken, after which [1287] proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Q. (By Mr. Mouritsen) Now, before the recess, Mr. Griffin, I believe we were talking about your work baling hay. I believe you stated that starting in 1936 you did that work for three seasons, is that correct? A. That is correct.

Q. And beginning in 1936, those three seasons that you did that would bring us up to what period?

A. About the '39—well, the summer of '39.

Q. What year? A. Summer of '39.

Q. '39 or '38? A. '38. Excuse me.

Q. At that time did you cease baling hay for Boswell's? A. Yes, sir.

Mr. Clark: I object to that on the ground it misstates the record, Mr. Examiner. This gentleman was baling hay, and Boswell's, as I understand it, was one of his customers, and other people were, too. In other words, I don't understand he was employed by Boswell up to this time.

Mr. Mouritsen: I want to know if he ceased baling hay for Boswell.

Mr. Clark: There is an inference there that there was an employment. That is what I want cleared up. [1288]

Trial Examiner Lindsay: May I have that question read?

(Testimony of Stephen J. Griffin.)

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: I object to that on the ground it assumes something not in evidence, namely, that this man was employed by Boswell's at that time, or during any of these seasons.

Trial Examiner Lindsay: May I have the other two or three questions preceding that?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I believe the answer was in before you objected.

Mr. Clark: Yes, it was.

Trial Examiner Lindsay: Do you want the answer stricken?

Mr. Clark: I move to strike it.

Trial Examiner Lindsay: Motion denied.

Q. (By Mr. Mouritsen) Now, after you ceased baling hay, did you go to work for the Boswell Company at the plant?

A. Not immediately. I went to work in about six weeks after I ceased baling hay.

Q. When did you cease baling hay?

A. I couldn't state just the time. It was in July some time.

Trial Examiner Lindsay: Which year?

The Witness: '38. [1289]

Q. (By Mr. Mouritsen) You went to work for the company in August or September, is that correct, of the year 1938?

(Testimony of Stephen J. Griffin.)

A. Yes, that is correct.

Q. And when you went to work for the Boswell Company, what type of work did you do?

A. I was cleaning, feeding suction, and sewing cottonseed, baling seed. [1290]

Q. What rate of pay did you receive?

A. 40 cents per hour.

Q. What hours per day did you work?

A. From eleven to, oh, I would say, some days, sixteen hours.

Mr. Clark: What was the rate of pay? I didn't catch it.

The Witness: 40 cents an hour.

Q. (By Mr. Mouritsen) And how long did you continue to work for the Company after you started in July or August of 1938?

A. I worked until the 17th day of November.

Q. And during that period from July or August of '38 to November, did you work steadily, or were you laid off from time to time?

A. I worked steadily.

Q. During this period in the year 1938 while you worked for the Company, did you ever have any conversation with Tom Hammond regarding the Union? A. I did.

Q. Do you recall the dates of any, or the approximate dates of any such conversations you had with Tom Hammond?

A. Well, it was sometime about the 6th or 7th of November.

Q. And where did this conversation take place?

(Testimony of Stephen J. Griffin.)

A. In the seed house. [1291]

Q. Was anyone else present other than yourself and Mr. Tom Hammond?

A. Yes, Jack Ely and Ray Fallon.

Mr. Clark: What was the last name?

The Witness: Fallon.

Q. (By Mr. Mouritsen) Have you named all of the people who were present at that time?

A. Yes.

Q. Will you state what you said to Mr. Tom Hammond on that occasion, and what he said to you?

Mr. Clark: Objected to on the ground it calls for hearsay and is not binding on any of the Respondents, no authority having been established from the Respondent Boswell to Mr. Hammond to speak for it with respect to any of the matters under investigation in this proceeding; on the further ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Well, I can't state just exactly the words that were said, but Tom was asking me if I had joined the Union, and he was talking about the thing being good enough at the Boswell Company. And I told him, "Yes, it was good enough for him," but a man working at ordinary wages, he couldn't make a living at it.

He said, "This Union is the worst thing that ever happened here." And he advised me to stay out of it. [1292]

(Testimony of Stephen J. Griffin.)

Q. (By Mr. Mouritsen) Do you recall anything further that was said at that time?

A. No, I can't.

Q. During that period in 1938, while you worked for the Company, did you become a member of any labor organization? A. Yes, sir.

Q. What organization? A. A. F. of L.

Q. And did you become a member of any Local of that organization?

A. Yes, sir, the Oil Mill and Cotton Gin Workers—no. I forget the number of the Union now, too.

Q. Well, was Mr. Prior who sits here at the table connected with that Local?

A. Yes, he was.

Q. And will you state whether or not other employees of the J. G. Boswell Company were members of that Local? A. Yes, sir.

Q. Do you recall the approximate date when you became a member of that Union?

A. Well, it was about the 15th or 16th of November, I believe.

Q. And after you became a member, did you attend meetings of the Local? A. I did.

Q. After you became a member of the Local, did you ever have [1293] a conversation with Tom Hammond regarding your membership in the Union?

A. Yes. He came around and asked me—

Mr. Clark (Interrupting): One moment.

Q. (By Mr. Mouritsen) Let us fix the time and place.

(Testimony of Stephen J. Griffin.)

Where did you have that conversation, Mr. Griffin?

A. At the cotton gin where I was sewing seed, back of the warehouse.

Q. And what was the approximate date of the conversation?

A. Well, that was along in the afternoon of November 17th.

Q. Was anyone else present other than yourself and Tom Hammond?

A. Yes, Paul Morris and George—Horace Hastings. That is all.

Q. What did Mr. Tom Hammond say to you on that occasion, and what did you say to him?

Mr. Clark: Objected to as calling for hearsay, may it please the Examiner, and upon the further ground it is incompetent, irrelevant and immaterial, there being no authority established from the Boswell Company to Mr. Tom Hammond to bind it with respect to any of the matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer, and you may have an exception.

The Witness: He came to where I was sewing seed, and he [1294] said, "Steve, did they get you last night?"

And I said, "Tom, I have been a member for two weeks."

And he said—that is all.

Q. (By Mr. Mouritsen) Was that the end of the conversation?

(Testimony of Stephen J. Griffin.)

A. That was the end of the conversation.

Q. Later in the day, did you have a conversation with Gordon Hammond?

A. Well, yes. Gordon come right away afterwards, and told me——

Mr. Clark (Interrupting): Just a minute.

Q. (By Mr. Mouritsen) How long after Tom Hammond talked to you did Gordon Hammond talk to you?

A. Well, something like fifteen or twenty minutes.

Q. After you had the conversation with Tom Hammond, did you observe what Tom Hammond did? A. Yes, sir. [1295]

Q. (By Mr. Mouritsen) What did Tom Hammond do?

A. He walked directly to the back of the warehouse and met Gordon and they stood and talked for around 15 or 20 minutes.

Q. And then did you observe what Gordon Hammond did after he had this conversation with Tom Hammond?

A. He came directly to me and told me I was laid off.

Q. Just a minute. Let us get the foundation first, Mr. Griffin.

Where did this conversation take place, the one with Gordon Hammond?

A. It was back of the warehouse.

Q. Was anyone else present at that time?

(Testimony of Stephen J. Griffin.)

A. Well yes, but nobody else heard the conversation, because I was hauling away seed.

Q. And what did Mr. Gordon Hammond say to you on that occasion and what did you say to Mr. Gordon Hammond?

A. Well, Gordon said, "Steve," he said, "can you find work any place else?"

I said, "I don't know." I said, "You know how times is. I don't suppose I could."

I said, "If I am laid off, I suppose I will have to try."

Well, he said, "I know you have got as big a family as anybody around here. You probably need the work as bad or worse than anybody around here, but I just haven't got any work for you." [1296]

And he said, "Some of the boys is getting it in their head that you boys are being laid off on account of the union." "But," he said, "There is nothing to that. I am just going to have to lay you off."

Q. Well now, during that conversation and before he mentioned the union, had you said anything to him concerning the union?

A. No, sir; I had not.

Q. Did you complete that day's work?

A. Yes, sir; I did.

Q. Have you had any employment since on or about November 17, 1938?

A. Yes.

Q. Do you know how much money you have

(Testimony of Stephen J. Griffin.)

earned since that time? A. No, not exactly.

Q. Well, can you give us the approximate figure?
A. Well, around \$65 or \$70.

Q. Are you now employed? A. Yes, sir.

Q. Where are you now employed?

A. I am employed on a hay baler at Hanford.

Q. And what rate of pay do you receive?

A. Well, I receive 25 cents per ton.

Q. Can you give us an approximate figure of what you earn [1297] per day or per week on this present job?

A. Well, it would be very hard. Around \$25 or \$30.

Q. Per week, is that correct?

A. Per week.

Q. Now, if the National Labor Relations Board should order your reinstatement with back pay, would you be willing to accept employment with the J. G. Boswell Company? A. I would.

Mr. Mouritsen: Now, Mr. Examiner, I believe I stated at the beginning of the Board's case that we were going to present the material against the J. G. Boswell Company, against the Associated Farmers and against the Exchange in that order. However, this witness—we have called him from his work and we prefer at this time also to examine him regarding the Associated Farmers' case, and I will do that at this time if that is agreeable.

Mr. Clark: That is satisfactory to us; yes.

Q. (By Mr. Mouritsen) Now, after——

Mr. Clark (Interrupting): First, may it please

(Testimony of Stephen J. Griffin.)

the Examiner, I want to make a formal objection to the reception of any evidence under the complaint in this matter as affecting the Associated Farmers of Kings County upon the ground there is no jurisdiction shown in the National Labor Relations Board with respect to that organization or over any alleged activities of it. [1298]

Trial Examiner Lindsay: Is that all?

Mr. Clark: That is all.

Trial Examiner Lindsay: The objection is overruled.

Q. (By Mr. Mouritsen) After you were laid off on or about November 17th, 1938, did you picket the plant of the J. G. Boswell Company?

A. I did.

Q. Did you picket the plant of the J. G. Boswell Company on or about January 30, 1939?

A. I did.

Q. Will you state at approximately what hour of the day you proceeded to the plant on that day, that is, on or about January 30, 1939?

A. About 6:00 o'clock in the morning.

Q. Was anyone else with you?

A. Yes, sir; Elgin Ely.

Q. And how did you proceed to the plant at that time?

A. We were in Elgin's car. He drove Elgin's car to the plant.

Q. Did you have any signs on the car?

A. No, not when we drove to the plant. We put the sign on after we got to the plant.

(Testimony of Stephen J. Griffin.)

Q. And what did the sign bear? What words did the sign bear, in substance? [1299]

A. Well, it said, "Picket car of the——" "A. F. of L. Picket Car."

Q. How long did you remain at the plant—strike that.

Where, if any place, did you station the car on that morning?

A. We stationed the car on the east side of the scale house, the scale office, near a telephone post.

Q. Is that near any entrance to the plant?

A. Yes. It is near the south entrance—no, the north entrance.

Q. Now, what activity did you engage in on that morning?

A. Well, we was stationed there stopping trucks if any appeared, and notifying them that Boswell Company was unfair to organized labor.

Q. And how long did you continue such activity?

A. Well, along up to 9:00 and 10:00 o'clock.

Q. On the morning—strike that.

Do you know a man named Lloyd Liggett?

A. Yes, sir, I do.

Q. Who is he?

A. Well, he was employed by the Boswell Company for a good long while and I understand he is farming, contracting their tractor work now.

Mr. Clark: May it please your Honor, I move that the part, "I understand he is farming and contracting"— [1300]

(Testimony of Stephen J. Griffin.)

The Witness (Interrupting) Well, he is.

Mr. Clark (Continuing) —“their tractor work now” go out as based upon hearsay and simply the conclusion of this witness with some rumor that he has heard.

Trial Examiner Lindsay: It may go out.

Q. (By Mr. Mouritsen) Have you observed Mr. Lloyd Liggett engaged in any of these activities that you have mentioned? A. I have.

Q. In 1938 and 1939?

Mr. Clark: I object to that upon the ground it is indefinite, vague, and unintelligible.

Trial Examiner Lindsay: May I have the question?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: My motion was in, Mr. Examiner, I believe, before the answer. If not, I move to strike the answer upon the same ground.

Trial Examiner Lindsay: Your objection came after the answer. The answer may stand.

Q. (By Mr. Mouritsen) Did you see Lloyd Liggett on this morning you were picketing the plant, that is, on or about January 30, 1938?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

The Witness: I did.

Trial Examiner Lindsay: Just a moment. He may answer. [1301]

The Witness: I did.

(Testimony of Stephen J. Griffin.)

Q. (By Mr. Mouritsen) What did you observe Mr. Loyd Legget doing on that morning, if anything?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

The Witness: He came from toward town between 9:00 and 9:15 and went into the Boswell office, and stayed for some time.

Q. (By Mr. Mouritsen) Approximately how long? A. Well, around fifteen minutes.

Q. Then what did you observe Mr. Loyd Legget do, if anything? A. He came out—

Mr. Clark (Interrupting) Just a minute, please.

That is objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: He came out of the office and went towards town.

Q. (By Mr. Mouritsen) Now, at or about that time did you see anyone else go into the plant?

A. Yes, several others.

Q. Who? A. Well, Elliott.

Q. Who is Mr. Ellet? [1302]

A. He is manager of a cotton gin in town.

Mr. Clark: How is that spelled, Mr. Examiner?

Trial Examiner Lindsay: Do you know how it is spelled? Is it E-l-l-i-o-t-t?

The Witness: I don't know—E-l-l-e-t.

(Testimony of Stephen J. Griffin.)

Q. (By Mr. Mouritsen) I will ask you, does the gin that he operates bear his name?

A. No——

Q. (Interrupting) Or is it called that?

A. It bears his name, but it belongs to somebody else. I don't know.

Q. Very well.

Now, do you know what business or occupation Mr. Ellet was engaged in? A. I believe——

Q. (Interrupting) I will withdraw that.

What did you observe regarding Mr. Ellet on that morning?

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: He came down and stopped in front of the office, and I couldn't say for sure if he went in, but I thought he did.

Mr. Clark: I move that "I thought he did" go out, your Honor, as being indefinite and not responsive. [1303]

Trial Examiner Lindsay: That may go out.

Q. (By Mr. Mouritsen) And after you observed Mr. Ellet at or near the plant, did you later see him leave?

A. Yes, sir. He drove around the plant.

Q. Now, did you see anyone else at or near the plant on that morning?

A. Yes, I did, but—— (pause) ——I don't believe I can recall their names now.

(Testimony of Stephen J. Griffin.)

Q. Now, after that time that you saw these people at or near the plant, did you later see Loyd Legget?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes, I did.

Q. (By Mr. Mouritsen) Did you observe what Mr. Loyd Legget did at that time?

Mr. Clark: Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

The Witness: He left and was gone around 15 minutes, and he came back and parked his car directly in front of the picket car.

Q. (By Mr. Mouritsen) Did anyone else accompany Mr. Loyd Legget when he returned?

A. Yes, sir. There was around fifty cars.

Q. I believe you stated that Mr. Loyd Legget parked his car [1304] in front of the picket car, is that correct?

A. Yes, sir, that is correct.

Q. What did Mr. Loyd Legget then do?

A. He got out of the car—

Mr. Clark (Interrupting) Same objection, your Honor.

Trial Examiner Lindsay: Same ruling.

Mr. Mouritsen: Mr. Examiner, could the Respondent have a continuing objection to this? It is very difficult—

Mr. Clark (Interrupting): I will accept that

(Testimony of Stephen J. Griffin.)

stipulation, Mr. Examiner. In other words, it is stipulated that my objection that this is all incompetent, irrelevant and immaterial runs to this entire line of testimony?

Mr. Walsh: Yes.

Mr. Clark: Very well. I won't repeat the objection.

Trial Examiner Lindsay: All right.

Q. (By Mr. Mouritsen) Now, will you state, Mr. Griffin, what Loyd Legget did after he parked his machine in front of the picket car?

A. He got out of the car and came over to our car, and opened the door on the side of the car where I was sitting.

Q. Did anyone else gather around the picket car other than Mr. Loyd Legget? A. Yes.

Q. Who; will you state?

A. They stated that they was 150 or 200—[1305]

Mr. Clark (Interrupting): Just one minute.

Mr. Mouritsen: Let us have, first, the names of as many of these other people who gathered around the picket car at that time as you can recall?

The Witness: Forrest Riley, E. C. Salyer, Walter Grisham. (Pause.) You have caught me. I know lots more of them that was there, but I can't recall them.

Marshall, George Cutter.

Q. (By Mr. Mouritsen) Now, Mr. Griffin, I will ask you whether or not you recognized any of the following persons in that gathering at that time—

(Testimony of Stephen J. Griffin.)

Mr. Clark (Interrupting): Just a minute. I object to this manner of examining this witness upon the ground it is improper direct examination; it is leading and suggestive, goes far beyond the proper manner of eliciting credible testimony from a witness on direct examination. I take it that Mr. Mouritsen is going to go through a list of names and ask this gentleman whether he saw this, that and the other one, and I submit, Mr. Examiner, the proper way is to exhaust the witness's memory by simply asking him who, if anyone, he now recalls was there, without any prompting.

Trial Examiner Lindsay: Have you anything to say in response to that?

Mr. Mouritsen: I will ask—if that is an objection—

Q. Have you given us all the names you recall? [1306]

A. Well, at present, yes, all that I know.

Q. Very well.

Then I will ask you whether or not you observed in that crowd Mr. Robert Wilbur?

Mr. Clark: Just one moment, your Honor.

I urge the same objection upon the grounds just stated, that it is improper direct examination, leading and suggestive, and amounts only to prompting this man who should know, if he remembers anything about the incident, who was there.

Mr. Walsh: You will have ample opportunity to cross examine the witness and test his memory.

(Testimony of Stephen J. Griffin.)

Mr. Clark: I don't understand Mr. Walsh's statement.

Mr. Walsh: I said you will have ample opportunity to cross examine the witness and test his memory.

Mr. Clark: That is not the burden of my objection. I make the objection upon the ground that this is leading and suggestive, and beyond the realm of proper direct examination.

Trial Examiner Lindsay: I think he may answer. Proceed.

The Witness: (Pause.)

Mr. Clark: I don't think he got your last question, Mr. Mouritsen. [1307]

Mr. Mouritsen: I will repeat it then and stipulate that your objection will go to it.

Mr. Clark: Very well.

Q. (By Mr. Mouritsen) I will ask you whether or not on that morning and in that gathering you recognized Robert Wilbur? A. Yes, I did.

Mr. Clark: I have nothing to say. I understand my objection on the ground of incompetency runs to the entire line of testimony, anyway.

Q. (By Mr. Mouritsen) I will ask you whether or not on that morning you observed in the gathering Roy Filcher. A. Yes.

Q. And I will ask you whether or not on that morning you observed S. F. Archer. A. Yes.

Q. I will ask you whether or not on that morning you observed in that gathering Roland Bailey?

(Testimony of Stephen J. Griffin.)

A. I did.

Q. I will ask you whether or not on that morning you observed Ralph Gilkey. A. Yes.

Q. And I will ask you whether or not on that morning among the gathering you observed Raymond Gilkey. A. Yes. [1308]

Q. I will ask you whether or not on that morning in the gathering you observed Walter Grisham?

A. Yes.

Q. I will ask you whether or not on that morning, among the gathering, you noticed Louie Hammond? A. No.

Q. I will ask you whether or not on that morning among the gathering you noticed Phil Hammond. A. Hanson.

Q. Phil Hanson? A. Yes, I did.

Q. I will ask you whether or not on that morning you observed J. W. Hubbard?

A. Well, no.

Q. I will ask you whether or not on that morning, among the gathering, you noticed "Slim" Jones. A. I did.

Q. Do you know his first name other than "Slim"? A. No, I don't.

Q. I will ask you whether or not on that morning, among that gathering, you noticed Joe Mackey.

A. Yes.

Q. I will ask you whether or not on that morning, among that gathering, you noticed Garland Salyer. A. I did. [1309]

(Testimony of Stephen J. Griffin.)

Q. I will ask you whether or not on that morning, among that gathering, you noticed Glen Segó.

A. Yes.

Q. And I will ask you whether or not on that morning, among that gathering, you noticed Ronald Squire? A. I did.

Q. I will ask you whether or not on that morning, among that gathering, you noticed Brice Sherman. A. Yes.

Q. And I will ask you whether or not on that morning, among the gathering, you noticed Russel Slaybough? A. I did.

Q. I will ask you whether or not on that morning, among the gathering, you noticed Louie Han-son. A. No, I did not.

Q. Now, do you recall the names——

Mr. Clark (Interrupting): Now, may it be understood, Mr. Examiner, that my objection as to the manner of eliciting this testimony rests to the entire line of testimony?

Mr. Walsh: So stipulated.

Mr. Clark: As to all these names?

Mr. Walsh: We will stipulate.

Mr. Clark: Without my repeating the objection?

Trial Examiner Lindsay: Yes.

Mr. Clark: Very well. [1310]

Q. (By Mr. Mouritsen) I will ask you, Mr. Griffin, if you recall the names of any other persons who were present that morning among the gathering. A. Yes, Clifford Hammond.

(Testimony of Stephen J. Griffin.)

Q. And any others? A. No, I believe not.

Q. Now, was anyone with you sitting in the picket car at the time when Loyd Liggett opened the door? A. Elgin Ely.

Q. Did Mr. Loyd Liggett say anything at that time? A. Well, yes.

Q. Will you state what Mr. Loyd Liggett said on that occasion?

Mr. Clark: Objected to upon the ground it calls for hearsay, Mr. Examiner, and is not binding upon any of the respondents in this proceeding; upon the further ground there is no connection shown between Mr. Loyd Liggett and any of said respondents, particularly the Associated Farmers of Kings County, and no authority shown by the Associated Farmers of Kings County to Mr. Liggett to speak for it in any connection.

Trial Examiner Lindsay: He may answer.

The Witness: He said, "What have you got here, Steve?" He said—

Q. (By Mr. Mouritsen) Did you say anything at that time? [1311]

A. No. He said, "You ought to be ashamed of yourself out here on this picket line, as good as the company has been to you. They just can't stand this." He said, "We are not going to stand for it. Get out of the car."

Q. Do you recall whether or not at that time anything was said regarding a violation of the law?

A. Yes, sir.

(Testimony of Stephen J. Griffin.)

Q. Will you state what was said in that respect and by whom?

Mr. Clark: Same objection, Mr. Examiner.

Trial Examiner Lindsay: Same ruling.

The Witness: I said, "Listen, Loyd," I said, "If I am violating the law, why don't you go get the law. I will go with the law."

Mr. Clark: I can't hear the witness.

Trial Examiner Lindsay: Read the answer.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen) Did Mr. Liggett say anything at that time?

A. He said, "No, Steve, you are not violating the law." "But," he said, "We are not going to wait on the law." He said, "There is 150 Associated Farmers here that says you can't set here."

Somebody else spoke up in the crowd and said, "No, there [1312] is 200."

Q. Did you recall or did you recognize—

Mr. Clark (Interrupting): Just so I may be sure my objection is in, I will move to strike that answer upon the grounds previously stated in support of the objection, your Honor.

Trial Examiner Lindsay: Motion is denied.

Mr. Walsh: May I have the last part of the answer read, please, your Honor.

Trial Examiner Lindsay: Yes. Read the last part of the answer.

Mr. Clark: May I have the question and the

(Testimony of Stephen J. Griffin.)

answer both read because I would like to have the objection in.

Trial Examiner Lindsay: The question and the answer.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I also move, may it please the Examiner, that the last part of the answer, namely, that involving the Associated Farmers, be stricken as not responsive unless it be deemed that my hearsay objection has been put into it in the proper order.

Mr. Walsh: I will so stipulate.

Mr. Clark: Will you stipulate to that?

Mr. Walsh: Yes, surely.

Mr. Mouritsen: Yes. [1313]

Mr. Clark: Very well. I will withdraw the motion, then.

Q. (By Mr. Mouritsen): Now, after—strike that.

Did you recognize the individual who spoke up at that time and said, “No, 200”?

A. No, I did not.

Q. Now, did Mr. Liggett say anything further to you at that time?

A. Well, the crowd began to holler, “Turn the car over. Take them out. What are we waiting on?”

Loyd said, “No, the boys are going to leave.”

Q. Well now, did you recognize any of the in-

(Testimony of Stephen J. Griffin.)

dividuals—strike that.

Other than Mr. Loyd Liggett, were a number of other individuals gathered around the car?

A. Yes.

Q. Approximately how many individuals would you—

A. (Interrupting): Well, I would say between 150 and 200.

Q. Now, did you recognize any of those persons in the crowd who made the statement, “Turn the car over”?

A. Well, no. They were standing in the back.

Q. Did you recognize any of the individuals in the crowd who made the statement, “Pull them out”?

A. Glen Sego.

Q. Any others? A. No. [1314]

Q. Did you recognize any of the individuals who stated “What are we waiting for”?

A. No.

Q. Now, after those statements were made did Mr. Liggett say anything further to you?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes.

Q. (By Mr. Mouritsen): Will you state what he said? A. He said—

Mr. Clark (Interrupting): Objected to as hearsay, not binding on any of these respondents.

Mr. Walsh: That is stipulated as to that.

(Testimony of Stephen J. Griffin.)

Mr. Clark: Very well.

Trial Examiner Lindsay: Yes.

The Witness: He said, "Boys, you better be getting out of here and," he said, "Don't come back." He said, "If you come back," he said, "We are not going to say what we are going to do to you the next time."

Q. (By Mr. Mouritsen): Do you recall anything further that he said at that time?

A. Somebody hollered at him and told him to move his car, that they would get out.

Q. Did you recognize the individual who hollered to him? [1315]

A. Well, E. C. Salyer.

Q. Now, at that time did you say anything or did Mr. Elgin Ely say anything?

A. Well, conversation between us—so much talk there is some of it I don't just remember or recall; just talk.

Q. Well, after Mr. Liggett made his last statement to you what did you do, if anything?

A. Well, they told us to get out. Elgin told them he couldn't start his car, that the starter was broke.

Q. Was anything further said at that time?

A. Well, they said they would push us away and somebody got the picket sign off the back of the car and brought it up and throwed it in the back of our car in the back seat.

Q. Was that somebody either you or Mr. Elgin Ely?
A. No. It was an Associated Farmer.

(Testimony of Stephen J. Griffin.)

Q. And did——

Mr. Clark (Interrupting): Just a minute.

Mr. Examiner, I move that “It was an Associated Farmer” go out as being a conclusion of this witness that is even beyond the hearsay objection or the lack of authority objection I have been making. There is no showing at all in this record to support any such statement as that, that it was the Associated Farmers. I move that it go out as not responsive and based upon the utmost speculation and conjecture.

Mr. Mouritsen: Well, Mr. Examiner, in that regard, of [1316] course we can only take the identification of these men that was made by themselves to the witness.

Mr. Clark: Well, that is not even supported here. That is hearsay.

Trial Examiner Lindsay: The answer may stand.

Q. (By Mr. Mouritsen): Now, after they placed the picket sign in the car, what next occurred, if anything?

A. Well, Loyd moved his car and they shoved us away. We started the car and three other boys drove up.

Q. What other boys drove up? Who do you mean by “the other boys drove up”?

A. Three of the union boys.

Q. And do you recall their names?

A. Yes.

(Testimony of Stephen J. Griffin.)

Q. Will you state them, please?

A. "Fat" Ely—(Pause)—let us see, there is three of them—I forget.

Q. Well, now, what next occurred after that, I mean after they drove up?

A. Well, they shoved our car over—no, they drove up before they shoved our car off and they told us to come on, let us go. They were talking to them. They wanted to know if that was some more of the boys, some more of the crowd, so they went over to that car and were talking to them.

[1317]

Q. Well now, Mr. Griffin, could you rather than use the pronoun "they" which is referring to both parties, could you name, identify the individuals in some other way?

In other words, let us go back.

I believe you started—you stated that a number of the union boys drove up before they shoved your car off. Is that correct?

A. Yes, that is correct.

Q. Now——

A. (Interrupting): R. K. Martin and "Fat" Ely and——

Q. (Interrupting): Do you recall the name——

A. (Interrupting): ——Johnston.

Q. And are they the three union men to whom you referred in your testimony? A. Yes.

Q. Now, who talked to whom during that——

A. (Interrupting): Well, Roland Martin hol-

(Testimony of Stephen J. Griffin.)

lered at us and told us to come on, let's go.

Q. Then what next occurred or what next was said?

A. Well, they shoved our car off and we turned around.

Q. And "they" refers to whom?

A. Well, Roland Martin.

Q. No. I mean who shoved your car?

A. Oh, the men, the Associated Farmers.

Mr. Clark: Now, just a minute, Mr. Examiner. I move [1318] that that go out. There is nothing established in this record whatsoever to warrant a statement such as that. If that is the kind of evidence that is going to be produced here, why I move, your Honor, that the matter as against the Associated Farmers be dismissed.

Mr. Walsh: I will stipulate the witness' answer be amended to read that the men who had denominated themselves as Associated Farmers—

Mr. Clark (Interrupting): The record does not even show that.

Trial Examiner Lindsay: Just a minute.

Mr. Clark: That denomination is the purest and rankest of hearsay.

Trial Examiner Lindsay: Now, listen. The record speaks for itself. It isn't necessary for you gentlemen to get into an argument. I believe this man, in his direct examination, right off, started by stating that Mr. Liggett said that there were 150 members of the Associated Farmers there.

(Testimony of Stephen J. Griffin.)

Now, if I am wrong on that, we will have it corrected. Go back and read the first part of this man's direct examination.

Mr. Clark: Subject to the objection that I made that it was hearsay.

Mr. Walsh: I recall the Examiner's statement as being the testimony of the witness and following that someone said "No, there were 200."

Trial Examiner Lindsay: Now, the answer may go in. In other words, he may answer. It is perfectly right that the attorneys should state their reasons for their objections, and put all the reasons that they think are applicable in the objection, the reason for the objection, and when you have exhausted your theories on what your reasons are, then I think it is advisable to let it stand there, and I will rule on it.

Now, as to arguing the evidence at this time, I think you are out of order, because you will be given—all parties will be given—a chance to argue the evidence, as I have stated some time ago. That will eliminate argument between counsel or the various parties.

We will adjourn until 2:00 o'clock.

(Thereupon, at 12:10 o'clock P.M., a recess was taken until 2:00 o'clock P.M. of the same date.) [1320]

After Recess

(Whereupon, at 2:00 o'clock p. m., the hearing in the above-entitled matter was resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Ready for the respondents.

Mr. Mouritsen: Ready for the Board.

Mr. Examiner, at this time we have obtained a photostatic copy of the union charter in this case, which has been introduced in evidence as Board's Exhibit 4. At this time I desire to offer the photostatic copy of Board's Exhibit 4 and withdraw the original of the charter.

Trial Examiner Lindsay: The substitution may be granted. Have you compared it? Oh, it is photostated.

Mr. Clark: I will take counsel's statement on that.

Mr. Mouritsen: And also at this time, Mr. Examiner, I desire to offer the constitution of the American Federation of Labor, as adopted at the 58th Annual Convention held at Houston, Texas, October 3rd to 13th inclusive, 1938, for which I believe Board's Exhibit 6 was reserved. I offer that as Board's Exhibit 6 at this time.

Trial Examiner Lindsay: That is correct. Any objections? (No response.)

It may be received.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 6.) [1321]

Mr. Mouritsen: May I have a moment, your Honor?

Trial Examiner Lindsay: Yes.

(Conference between counsel.)

STEPHEN J. GRIFFIN,

the witness on the stand at the time of recess, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

(Continued)

Q. (By Mr. Mouritsen): Now, Mr. Griffin, when you were on the stand before the recess I believe you were describing the events that occurred on the morning of January 30, 1939, and you had proceeded as far as the description of the fact that they pushed, a number of these people in the crowd pushed the car in which you and Elgin Ely were sitting. Is that correct? A. Yes, sir.

Q. And that at or about the time that they pushed the car these other union boys that you named drove up. Is that correct? A. Yes.

Q. Now, will you describe what occurred after the boys, the members of the crowd, pushed the machine in which you and Elgin Ely were sitting?

A. Well, we drove a ways north and turned around and came back through the Associated Farmers. [1322]

Mr. Clark: Now, may it please your Honor, I ask that the statement of the witness that he came

(Testimony of Stephen J. Griffin.)

back through the Associated Farmers go out as constituting his conclusion and also based upon hearsay.

Mr. Mouritsen: I will agree that it may be deemed that the witness stated the men who denominated themselves as Associated Farmers——

Mr. Clark (Interrupting): I won't accept that amendment. The same objection, Mr. Examiner.

Trial Examiner Lindsay: All right. He may answer.

Q. (By Mr. Mouritsen): Will you continue your description?

A. Well, we drove back through the Associated Farmers——

Mr. Clark (Interrupting): Same objection. Now just a minute, please.

Trial Examiner Lindsay: Just a minute. I thought you accepted the statement that it might be deemed to be a group of men who were designating themselves as such.

Mr. Clark: I specifically said I did not accept that, Mr. Examiner.

Trial Examiner Lindsay: I misunderstood you.

Mr. Clark: I made my objection to the statement, even if it be so interpreted, it was an unwarranted conclusion by this witness——this is the ground of my objection——and is based solely upon hearsay and no authority or connection whatsoever established in this record between the people at

(Testimony of Stephen J. Griffin.)

[1323] this meeting and the Associated Farmers of Kings County which would warrant the witness making such a statement.

Trial Examiner Lindsay: Will you kindly read back Mr. Clark's statement just a few minutes ago in response to Mr. Mouritsen's statement?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I am sorry. I misunderstood you. I thought you said you would.

You may describe what these people are and, for the time being, leave the two words "Associated Farmers" out of your answers.

The Witness: Well——

Mr. Mouritsen (Interrupting): Do you understand the Trial Examiner's correction in that regard?

The Witness: Yes.

Q. (By Mr. Mouritsen): Will you proceed with your description.

A. Well, we stopped and Ralph Marshal was in the crowd. Elgin Ely asked him if he would be satisfied now that we were leaving. He said, "Yes." [1324]

Mr. Clark: Just a moment. I ask that go out as not responsive. I didn't understand that this question called for a conversation.

Trial Examiner Lindsay: Read the question.

Just a moment, now. All attorneys must pay attention to these questions and the answers.

(Testimony of Stephen J. Griffin.)

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Now, read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Mr. Clark: I move that go out as not responsive, your Honor, and based on hearsay.

Trial Examiner Lindsay: It may remain.

Q. (By Mr. Mouritsen): Now, after Ely made the statement, did Marshall say anything?

Mr. Clark: The same objection, your Honor, hearsay, incompetent, irrelevant and immaterial, no connection shown between Marshall and any of the Respondents.

Trial Examiner Lindsay: The same ruling.

The Witness: Yes.

Q. (By Mr. Mouritsen): What did he say?

A. He said, "Yes, we will be satisfied. Keep going and go on into Old Mexico."

He said, "Where are you from, anyway, Ely?"

[1325]

He said, "I am a native townner."

Q. Who said that? A. Ely.

Q. Continue.

A. He said, "I didn't know we had such people as you in California." He said, "You had better go to Oklahoma and swap places with somebody down there and let them come out here."

Q. Who made that last statement?

(Testimony of Stephen J. Griffin.)

A. Ralph Marshall.

Q. Did any further conversation take place at that time between Elgin Ely and Ralph Marshall?

A. Not that I remember.

Q. Will you state what next occurred after that conversation?

A. Well, we drove away and came to Martin's house and stopped in front of Martin's house; and we heard the horns honking down town, and they were having a parade, the farmers.

Mr. Clark: Just a moment. I ask that "they were having a parade, the farmers," go out. It is this gentleman's conclusion. He was at somebody's house, not down town.

Trial Examiner Lindsay: "They were having a parade down town," may go out for the time being. The rest of the answer may stand.

Q. (By Mr. Mouritsen): Mr. Griffin, did you see the people you described as farmers having a parade down town? [1326]

A. Yes, I seen the cars.

Q. Will you describe what you saw with reference to the fact that you have—or the thing that you have called a parade? What did you see in that regard?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: I seen the cars driving up and down the street blowing their horns, and heard them blowing their horns.

(Testimony of Stephen J. Griffin.)

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Clark): Mr. Griffin, am I correct in stating that you returned to work at the Boswell plant in the fall of 1938 on or about the first week in August? A. No, sir.

Q. Well, when was it please?

A. It was sometime in August; I don't know what time.

Q. Some time in August? A. Yes.

Q. Do you hear my questions?

A. Yes, I heard your questions.

Q. And how long did you work at that time?

A. I worked until the 17th day of November.

Q. Continuously?

A. Continuously, yes, sir.

Q. And what job did you perform there? [1327]

A. I cleaned up around the cotton gins and fed suction, and sewed cotton seed.

Q. Well, do I understand that you weren't laid off at any time after the first week of August, 1938, until the 17th day of November?

A. Yes, you do.

Q. Your name is Stephen J. Griffin?

A. Yes, sir.

Q. I want to show you, Mr. Griffin, what purports to be your Social Security record kept at the Boswell Company, being part of Board's Exhibit 3 in this case, and I want particularly to direct your attention to the entry 8-11, meaning Au-

(Testimony of Stephen J. Griffin.)

gust 11th, 1938, opposite which appears the figures \$8.75, and then to the next entry, 10-13, meaning October 13th, opposite which appears the figures \$10.40, and after you have examined those, I will ask you whether your recollection is refreshed as to whether or not you weren't laid off from August 11th until on or about October 7th of 1938?

Mr. Walsh: I object unless those figures—

Mr. Clark (Interrupting): They are in evidence, Mr. Walsh, already.

Mr. Walsh: Let's explain to the witness that the time when the payment is made which is reflected on those records and for what period of time the witness worked that is covered by the payment that is made in that last figure, October whatever [1328] the date you read, Mr. Clark—

Mr. Clark (Interrupting): October 7th. I said until on on or about October 7th, the date being October 13th. [1329]

I may state for your information, Mr. Walsh, there already appears from the evidence in this case that the payments are made at the end of a work week, you see?

I will submit the record, Mr. Examiner, because I am examining the man on his recollection, and am asking him whether or not the dates called to his attention refresh his recollection with respect to the amount of time he worked in this plant during this particular time in 1938.

Mr. Walsh: I will withdraw the objection in

(Testimony of Stephen J. Griffin.)

view of the fact that counsel has explained to the witness that the payments are made at the end of the work week for which the wages are earned.

Trial Examiner Lindsay: Do you understand the question, Mr. Witness?

The Witness: I understand the question, yes.

Trial Examiner Lindsay: All right.

You may answer.

The Witness: Well, I think there is a mistake in the books.

Q. (By Mr. Clark) You say there is a mistake in the books? A. Yes.

Q. So that your testimony is that you were not—withdraw that.

Your testimony is that you did work at the Boswell plant from August 11, 1938, to October 10th—to October 7th, 1938 continuously without any lay-off, is that right? [1330]

A. Well, as far as I can remember, yes.

Q. What were you doing during that period of time?

A. I was sewing cottonseed cake and cleaning up around the gins and feeding suction.

Q. All right.

Now, were you hauling any cotton at that time, too? A. Hauling cotton?

Q. Yes.

A. Well, if we didn't have work to do in sewing seed or cleaning up around the house, we hauled cottonseed into the warehouse—into the seed house.

(Testimony of Stephen J. Griffin.)

Q. Now, during this period of time, that is from August of 1938 on through to November 17th, were you paid continuously at the rate of 40 cents an hour? A. Yes.

Q. During the last week of your work there at the plant, that is, the week ending November 17th of 1938, am I not correct in stating that your work consisted chiefly of hauling planting seed?

A. No.

Q. What did it chiefly consist of?

A. It chiefly consisted of sewing planting seed.

Q. Sewing what kind of seed?

A. Planting seed.

Q. Planting seed? [1331]

A. Yes, sir.

Q. Was there some work done by you during that week which consisted merely of cleaning up around the plant?

A. Well, I don't know as there was that week.

Q. Now, did you finish the sewing—withdraw that.

Was there a certain amount of sewing that you were working on during that week, a certain acreage?

A. Well, we were sewing from the gin. That is all I know.

Q. Sewing sacks, is that right?

A. Sewing sacks from the gins, and as long as the seed ran, I suppose I did.

Q. The thing I wanted to know is this: Didn't the seed run out?

(Testimony of Stephen J. Griffin.)

A. No, it did not.

Q. Do you know how many hours a day you worked during the last week of your employment?

A. Around 12 hours; yes.

Q. You are sure of that?

Mr. Mouritsen: May that be clarified? I don't think the witness understands.

Q. (By Mr. Clark) A day, I mean.

A. 12 hours a day.

Q. Around 12 hours a day? A. Yes.

Q. When was it with respect to November 17th that you first [1332] learned you were to be laid off?

A. It was some time in the evening around 2:00 or 3:00 o'clock.

Q. Weren't you told at least two days prior to that time—

A. (Interrupting): No, sir.

Q. (Continuing) Wait a minute, please. Don't be so anxious in these answers.

Weren't you told at least two days prior to the 17th that it would be necessary to lay you and certain others off? A. No, sir.

Q. You are sure of that?

A. I am sure of it.

Q. So, if I understand you, the first information you had of the fact that you were to be laid off came about 2:00 or 3:00 o'clock on the afternoon of the 17th, is that right?

A. Yes, sir, before I was laid off, 2:00 or 3:00 o'clock on the 17th.

(Testimony of Stephen J. Griffin.)

Q. All right.

Where was it that you were sewing sacks in the plant?

A. I was sewing sacks between the gin and the back of the warehouse.

Q. All right.

Is there some kind of a spout that empties seed into the sack? [1333]

A. Yes, sir.

Q. And how close to you is another spout where another sack sewer is?

A. Right against it.

Q. Just within a yard or two, isn't that right?

A. Yes, sir.

Q. Do you remember who was working at the spout sewing sacks on the 15th of November, 1938?

Mr. Mouritsen I object to the question. I think the date is the 15th.

Mr. Clark: I say the 15th, two days earlier.

Trial Examiner Lindsay: You may answer.

The Witness: Well, they were changed around until I don't remember just who—several of us work there.

Q. (By Mr. Clark) Take the week ending November 17th, Mr. Griffin, and I will ask you for the names of as many persons as you can remember who worked at sewing sacks at the spout right next to you.

A. Well, Morris, Horace Hastings; and Horace didn't work all the time. He just worked part of the time. He would come around and spell us off

(Testimony of Stephen J. Griffin.)

at noon, something that way, if they needed someone, someone called over to load cotton or something, he helped; George Andrade and myself.

Q. Is that George Andrade?

A. Andrade yes. [1334]

Q. Did he work at that job during the week ending the 17th?

A. Yes, sir.

Q. And who else, if anyone?

A. No one else. There was a fellow by the name of Eller worked there part of the time.

Q. Eller?

A. Eller; called off a job to spell out.

Q. All right.

Now, did all of these men you have named work only at the sack sewing place next to you?

A. No. They worked at different jobs.

Q. No, no. I mean, did any of them spell you off sewing sacks during that week.

A. During the noon hour, yes, while we ate lunch, probably ten or fifteen minutes.

Q. All right.

Now, the thing I am asking you for is the man, if any, who worked steadily at the place where the seed was put in the sack next to you.

Mr. Mouritsen: I object—

Mr. Clark (Interrupting): During the week ending November 17th.

Mr. Mouritsen: I object to that as already asked and answered. [1335]

Mr. Clark: I don't think it is clear, Mr. Ex-

(Testimony of Stephen J. Griffin.)

aminer, whether there was one man who occupied the position or whether there were these four or five this gentleman has named.

Trial Examiner Lindsay: If he knows, he may answer.

The Witness: Well, no; there weren't. There was Horace Hastings. He came on the job after I was laid off on the 17th.

Q. (By Mr. Clark) I am not interested in that. I mean up to the 17th.

A. I didn't understand your question.

Q. All right. Let us go back a minute.

As I understand it, there are two of these spouts out of which seed comes into sacks.

A. Yes, sir.

Q. At the place where you were working sewing sacks, is that right? A. That is right.

Q. Now, I understood you to say that during the week ending the 17th you were the regular sack sewer on one of these spouts.

A. Yes, sir.

Q. And that you were only spelled off or relieved during the noon hour.

A. Yes, sir. [1336]

Q. Is that right?

A. That is right, unless the seed run out in the gin.

Q. All right.

Now, was there anybody else who was the regular sack sewer at the other spout right next to you?

(Testimony of Stephen J. Griffin.)

A. Well, I don't think so; same as I was, if there was seed to run, we would run seed.

Q. Who was it that worked there during the week ending the 17th?

A. Morris and George Andrade.

Q. Who else? A. And myself.

Q. You don't understand me, Mr. Witness.

A. Horace Hastings worked part of the time.

Q. At the other spout?

A. At the other spout. He worked part of the time if we had two spouts running.

Q. All right.

A. And sometimes only one spout was running.

Q. I see.

Now, who worked with you, if anyone, on your spout? A. Morris, Mr. Morris.

Q. All right.

Now, how about November 15th? Do you remember who worked those two spouts on that day? [1337]

A. Yes. I did, helped work one. I don't remember who was on the other.

Q. Who was it helped you on yours?

A. Morris.

Q. And who was working the other one on that day?

A. Well, I don't remember; don't remember just who it was. George Andrade was working on one of them.

Q. Do you remember who helped him?

(Testimony of Stephen J. Griffin.)

A. I don't remember who it was helped him.

Q. Have you given us the names of everyone who worked at those positions at those two spouts?

A. Yes.

Q. During that week? A. Yes.

Mr. Clark: May I see Board's Exhibit 3?

(The document referred to was passed to Mr. Clark.)

Mr. Clark: Pardon me just a minute, Mr. Examiner. (Examining document)

Q. Now, Mr. Griffin, I want you to—I want to again show you the record which has been marked Board's Exhibit No. 3, and particularly directing your attention to the sheet which is headed with your name, and I will ask you whether it isn't a fact that for the week ending August 11, 1938, you received a total payment of \$8.75.

A. Well now, that is back until I couldn't remember. [1338]

Q. You have no recollection on that?

A. I don't recollect, no.

Q. And then for the week ending October 13th you received a total payment of \$10.40?

A. No, I couldn't state that for a fact because I don't remember the checks that I received.

Q. Well, were there some weeks during the period you have described as working at the Boswell plant in the fall of 1938 in which you received payments as low as \$8.75 or \$10.40?

A. For a week's work? [1339]

(Testimony of Stephen J. Griffin.)

Q. For a week's work at the end of the work week?

A. Well, I don't remember; not for a whole week's work, no.

Q. Well, when you came to get your pay check at the end of any week during the period commencing August 1938 up to November 17th, 1938, do you remember any occasion when the check you received was as low as \$10.00?

Mr. Mouritsen: I object to that as already asked and answered.

Mr. Clark: Submit it.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Do you remember whether or not, for the week ending October 27th, 1938, or rather for the week ending November 3rd, 1938, your check was in the sum of \$24.80?

A. No, I don't remember just the amount. No.

Q. Do you remember any occasion during the fall of 1938 when you were working at the Boswell plant when the check which you received at the end of the work week was as low as \$24.80?

A. Well, no, I don't remember the checks. I got them and spent them, so if I got the check why, whatever amount it was, I cashed the check and spent it, so I didn't keep any tab on the check.

Q. You didn't keep any tab on the amount of payments either, is that right?

A. The amount of payment?

Q. Yes. [1340]

(Testimony of Stephen J. Griffin.)

A. No. I could estimate roughly what I earned during the week.

Q. Were there certain weeks during that period of time, Mr. Griffin, when you did not work on several days?

A. No, there was not. There could have been possibly one Sunday, a few Sundays that way I didn't work, but week days I did work.

Q. Is it your testimony that during the fall of 1938 from approximately the 1st of August clear up to the 17th day of November, you worked at least 12 hours on each and every week day?

A. No, I didn't say that. I said that I worked from 11 to 12 hours.

Q. Let me amend my question as follows:

Is it your testimony, Mr. Griffin, that continuously from the 1st of August, 1938, up to November 17th, 1938, you worked at least 10 or 11 hours on each week day?

A. Well, that is the best of my memory.

Q. And that you received a payment continuously at the rate of 40 cents an hour for that work?

A. To the best of my memory, yes.

Q. This, of course, this work I am talking about is the work performed by you at the Boswell plant here in Corcoran?

A. The Boswell plant.

Q. Is that correct? [1341] A. Yes, sir.

Q. This hay baling you did was on contract, wasn't it?

(Testimony of Stephen J. Griffin.)

A. Well, it was—they told me to bale the hay, yes.

Q. Then you billed them for it at a certain rate?

A. No, they usually fixed the rate themselves.

Q. All right.

But they paid you a certain rate based upon the amount of hay you baled? A. Yes, sir.

Q. I think you told us if you got any outside jobs in extra time that you took them?

A. Yes.

Q. Is that right?

A. With the permission of the Company, if they called me back, I should come back any time they called me.

Q. I see.

Where did you do this hay baling?

A. On the Boswell ranch.

Q. I said where? A. Where?

Q. Where?

Mr. Mouritsen: Now, may counsel be instructed to follow the question? The witness has already answered the question counsel asked him.

Mr. Clark: I don't think so. I will submit it. [1342]

Trial Examiner Lindsay: You asked him where he did it, and he said on the Boswell ranch.

Mr. Clark: I say "where" again.

Trial Examiner Lindsay: Sustained.

(Testimony of Stephen J. Griffin.)

Mr. Clark: Well, may I have the witness locate the Boswell ranch? Where he did this baling?

Trial Examiner Lindsay: If you put it in a question so he understands.

Mr. Clark: That was my question, Mr. Examiner.

Q. Where is this ranch that you did the hay baling on?

A. It is about—between two and three miles North of town.

Q. I see.

A. South of town, excuse me. I will change that.

Q. I see.

On your direct examination——

Trial Examiner Lindsay (Interrupting): I must just call your attention, Mr. Clark, to one thing. Three different times you repeated the word “where,” and that constituted your question. When I sustained the objection and told you that you might ask it if you formed the question so it is understandable, it is not necessary to come back and mis-state the facts.

Now, proceed.

Mr. Clark: Did I understand your Honor to say that I mis-stated a fact?

Trial Examiner Lindsay: Yes. You said that in response to [1343] my direction, that that was your question, and your question was the word “where.”

Mr. Clark: The record——

Trial Examiner Lindsay (Interrupting): All I

(Testimony of Stephen J. Griffin.)

was trying to get was to have you state your question so that the witness would know what you are talking about.

Proceed.

Mr. Clark: Well, the record will show, your Honor, whether I am misstating any fact.

Trial Examiner Lindsay: Yes. It will show you are.

Mr. Clark: Yes, clearly.

Trial Examiner Lindsay: When I give a direction, I want it carried out.

Mr. Clark: Very well.

Trial Examiner Lindsay: I am not going to have any more insolence from anyone. Now, when I request a thing be done, then I want it done.

Mr. Clark: Now, may I proceed, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark) On your direct examination, Mr. Griffin, you told us about a meeting of the Union members which I think you placed as around the 15th or 16th of November?

A. Yes, sir.

Q. Do you remember that?

A. Yes, sir. [1344]

Q. And then am I correctly stating that you said the members of the Union were present at that meeting?

A. Yes, sir.

Q. Will you name them for us?

A. Well, Elgin Ely, Roland Martin, Johnston,

(Testimony of Stephen J. Griffin.)

Fat Ely, Elmer Eller, Lonnie Spear, George Andrade and the balance of the bunch.

Q. Who constituted the balance of the bunch, as nearly as you can remember? A. Powell.

Q. Powell? A. Yes, sir.

Q. What is Mr. Powell's nickname?

A. Coon.

Q. Is that all of his nickname?

A. As far as I know.

Q. Yes.

Who else, please?

A. Walter Winslow and O. L. Farr. That is as far as I remember.

Q. Where was this meeting held, please?

A. Mr. Farr's, O. L. Farr's house.

Q. During the time that you were working at Boswell's in the fall of 1938, did you see Mr. Gilmore on the Company property on any occasion? [1345] A. Well, I can't say that I did.

Q. You are positive of that?

A. Well, I don't remember seeing him. [1346]

Q. Now, I want to direct your attention to the testimony which you gave concerning the events of January 30, 1939. You have that in mind, have you?

A. Yes.

Q. What day of the week was that?

A. Well, I don't know; don't remember the day.

Q. You don't remember what day January 30th was? A. No, I don't.

(Testimony of Stephen J. Griffin.)

Q. Will you please name for us again the people whom you saw during that gathering while you were sitting there in your picket car?

A. Raymond Gilkey, Ralph Gilkey, Ralph Marshal, Loyd Liggett, Forrest Riley, "Doc" Segoe; Elliott.

Q. What is his first name?

A. I don't know what his first name is.

Q. I see.

A. Ronald Squire, and two I didn't mention this morning, the one that runs a tractor company warehouse here—I don't know their names. They were there.

Q. How many of them are there?

A. Two here; one runs the business and the other is a salesman.

Q. I see.

Who else, please, that you can recollect?

A. Bob Wilbur and Bill Wilbur—their names is different [1347] but I don't know just the difference in their names—Walter Grisham, Clyde Nunley, Joe Mackey, E. C. Salyer, Salyer's brother.

Q. Also named Salyer, is that right?

A. Also named Salyer; his son Everett and "Slim" Jones; Ronald Bailey. That is all I can remember right now.

Q. Well, just take as much time as you need, Mr. Griffin, and give us any others you remember now, if you do.

A. (Pause) Clifford Hammond. That is all I can remember now.

(Testimony of Stephen J. Griffin.)

Q. Now, how many people—

A. (Interrupting) Ralph Gilkey.

Q. What is that?

A. Ralph Gilkey. I believe I named him.

Q. I believe you named him.

How many people were there in this crowd on that morning, as near as you can estimate it?

A. My estimation is between 150 and 200.

Mr. Clark: That is all.

Mr. Mouritsen: No further questions?

Mr. Clark: No further cross examination.

Mr. Mouritsen: Nothing further.

May the witness be informed that he may now be excused and leave the hearing room to return to his work?

Trial Examiner Lindsay: Yes. You are excused now. If [1348] there is no further use for this witness, then he is excused for good, is that right? Subject, however, to—

Mr. Clark (Interrupting): Mr. Examiner, may I ask him one more question which I overlooked, before we let him go for good?

Trial Examiner Lindsay: Well, yes.

Mr. Clark: Will you take the stand?

Trial Examiner Lindsay: He can answer from right there if it is just one question.

Mr. Clark: It may be more than one, depending upon his answer.

Q. Mr. Griffin, did you ever apply for work again at Boswell's after the 17th? A. No.

(Testimony of Stephen J. Griffin.)

Q. Did you attend a union meeting on or about November 19th at which a boycott was declared against Boswell? A. Yes, sir.

Q. And have you since that time been participating in that boycott? A. Yes, I have.

Q. Now, have you ever had reported to you in any union meeting or gathering a conversation which took place on November 28th between Mr. Prior and Mr. Robinson of Boswell Company concerning the reinstatement of the union members?

A. No, I don't remember of that. [1349]

Q. In other words, did anyone ever tell you about any such meeting? A. No.

Q. Did Mr. Prior ever tell you what occurred at that meeting?

A. I don't remember whether he did or didn't.

Q. Are you simply following the attitude or action of the majority of your union with respect to going back to work at Boswell's?

Mr. Walsh: Objected to as immaterial and incompetent.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) You haven't gone back and applied for a job?

Mr. Mouritsen: I object to that as already asked and answered.

Trial Examiner Lindsay: Sustained.

Mr. Clark: That is all.

Mr. Mouritsen: Nothing further.

(Witness excused.)

Mr. Mouritsen: Call Eugene Clark Ely.

EUGENE CLARK ELY,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows: [1350]

Direct Examination

Q. (By Mr. Mouritsen) Will you state your name, please. A. Eugene C. Ely.

Q. Where do you live?

A. Corcoran, California.

Q. Have you ever worked for the J. G. Boswell Company? A. I have.

Q. When did you first start to work for that company? A. In September of 1937.

Q. What type of work did you do at that time?

A. I helped the electrician.

Q. What rate of pay did you receive?

A. 35 cents per hour.

Q. What hours per day did you work?

A. 11 hours.

Q. How long did you continue to help the electrician? A. For about four months.

Q. Then what type of work did you do for the company?

A. I was watchman in the cotton yard for about two weeks.

Q. Was there any change in your rate of pay?

A. No.

Q. And did you work 12 hours a day on that job? A. I did, seven days a week.

(Testimony of Eugene Clark Ely.)

Q. What type of work did you next do for the company? A. I went in the oil mill. [1351]

Q. What type of work did you do there?

A. Just cleaning up and keeping the expellers cleaned out and beating the stuff that came out of the expellers back through, pushing the wheel bar.

Q. How long did you continue to do that type of work? A. Until about March 24, 1938.

Q. What occurred on that date?

A. I was laid off.

Q. Who laid you off?

A. Julius Hammond.

Q. And did you work for the company after that time?

A. Yes, I worked a short time after that, two weeks back, running planting seed.

Q. And when did that occur?

A. I don't remember just what month that was in.

Q. And after that two weeks' work did you later return to the employment of the company?

A. Yes, some time after harvest I baled straw for the company two and three weeks.

Q. And do you recall the period when that occurred?

A. Around June or July. I wouldn't be sure.

Q. And after that time did you return to the employment of the company again?

A. In October 1938.

Q. What type of work did you do then? [1352]

(Testimony of Eugene Clark Ely.)

A. I was running a cotton drier.

Q. What rate of pay did you receive?

A. For about four days, 35 cents an hour.

Q. And did you receive an increase in pay?

A. 40 cents an hour.

Q. An increase to 40 cents an hour?

A. Yes.

Q. How long did you continue to run the cotton drier? A. Until about December of 1938.

Q. Then what type of work did you do?

A. I worked for Rube Lloyd, construction, setting pumps, and doing carpenter work, helping.

Q. How long did you continue to do that type of work? A. Until January 30th, 1939.

Trial Examiner Lindsay: What was the date?

The Witness: January 30th, 1939.

Q. (By Mr. Mouritsen) Now, what occurred—with reference to your employment with the company what occurred on January 30th, 1939?

A. The day I was laid off?

Q. Well, I will ask you whether or not you were laid off on January 30, 1939? A. I was. [1353]

Q. And by whom were you laid off on that occasion?

A. I went and seen Rube Lloyd. I had been working for him about two months, and I asked him——

Mr. Painter (Interrupting): Just a moment, your Honor. If this calls for a conversation, we will object to it as hearsay, and not binding on any of the Respondents.

(Testimony of Eugene Clark Ely.)

Mr. Mouritsen: We will get the foundation laid.

Trial Examiner Lindsay: Are you withdrawing your question?

Mr. Mouritsen: Yes, I will withdraw the question while I lay the foundation.

Q. Prior to this conversation on or about January 30th, 1939, had you been away from work at the plant?

A. Yes, on Saturday before the Monday I was laid off, I came down and——

Q. (Interrupting) Let's get that foundation.

Did you see anybody on this Saturday about remaining away from work? A. Yes.

Q. Whom did you see? A. Rube Lloyd.

Q. And was he the man who, prior to that time, had laid you off and had told you when to come to work? A. He had.

Q. Had he, prior to that time while you worked for him, given [1354] you orders regarding your work? A. He did.

Q. Did you carry such orders out?

A. I did.

Q. Did he do that on a number of occasions?

A. He did.

Q. Now, do you recall where you had this conversation with Rube Lloyd on that day, if you had such a conversation? A. It was in the yard.

Q. Was anyone else present? A. No.

Q. What did Mr. Rube Lloyd say to you on that occasion, and what did you say to Rube Lloyd?

(Testimony of Eugene Clark Ely.)

Mr. Painter: Objected to as hearsay, not binding on these Respondents, and no authority shown for Rube Lloyd to speak for any of the Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: I told Rube Lloyd that I didn't feel like working that day, that I had hurt my shoulder the day before. And he said that was perfectly all right, to take off the day, it was raining and there wouldn't be much doing anyhow.

Q. (By Mr. Mouritsen) Now, was there any further conversation at that time?

A. No, oh—he told me——

Mr. Painter (Interrupting): The same objection, your Honor. [1355]

Trial Examiner Lindsay: The same ruling.

The Witness: He told me to report back to work Monday morning.

Q. (By Mr. Mouritsen) Was that the end of the conversation? A. That was.

Q. Now, on the Sunday following that conversation with Rube Lloyd, did you attend a Union meeting in Bakersfield? A. I did.

Q. And how did you reach that—or, how did you go to the meeting in Bakersfield?

A. With R. K. Martin, Elgin Ely and W. R. Johnston.

Q. Did you go by car? A. Yes.

Q. During the course of your journey to Bak-

(Testimony of Eugene Clark Ely.)

ersfield, did you pass the J. G. Boswell plant here in Corcoran? A. We did.

Q. Will you state what occurred at the time when you passed the plant?

A. There were several of the boys out in a box car unloading gravel, the employees of the J. G. Boswell Company.

Q. Will you state whom you saw doing that work?

A. Jack Owens and Clarence Sitton and Sam Robinson.

Q. Did they look at you while you were passing the plant? A. Yes.

Q. Where was this—strike that. [1356]

Then did you proceed to the Union meeting in Bakersfield? A. I did.

Q. Where was that meeting held?

A. In Bakersfield, in the Teamsters' Hall.

Q. Prior to your going into the meeting in Bakersfield, did you stop in front of the hall where the meeting was held? A. Yes.

Q. Will you state what occurred at that time?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Myself and Mr. Prior, Elgin Ely, and W. R. Johnston, and R. K. Martin, and several other fellows from the Bakersfield Local were standing out in front of the Teamsters' Hall in Bakersfield, and Mr. Bill Boswell, he came by

(Testimony of Eugene Clark Ely.)

driving about 15 miles an hour; and he gave us the once-over as he went by.

Q. (By Mr. Mouritsen) When you say he gave you the once-over, what do you mean by that?

Mr. Painter: I move to strike out the answer as not responsive to the question, and calling for a conclusion of the witness.

Trial Examiner Lindsay: It may remain, and you may proceed.

Q. (By Mr. Mouritsen) Now, Mr. Ely, when you state he gave [1357] you the once-over, what do you mean by that?

A. Well, he was looking straight at me from the time he came in sight until the time he got out of seeing distance.

Q. Will you state whether or not there is a sign on the building of the Teamsters' Local in Bakersfield? A. Yes.

Q. Will you state in substance what the sign sets out?

A. It is the Teamsters' Hall, Local No. 87.

Q. And after that—after the occurrence you have described, did you attend the meeting?

A. I did.

Q. Now, on or about January 30th, 1939, did you return to work at the J. G. Boswell plant in Corcoran? A. I did.

Q. Approximately what time in the day?

A. About 6:30 in the morning.

Q. Did you have a conversation with anyone at that time? A. I did.

(Testimony of Eugene Clark Ely.)

Q. With whom? A. Rube Lloyd.

Q. Where did the conversation take place?

A. Out in the yard.

Q. Was anyone else present other than yourself and Rube Lloyd? A. No.

Q. Will you state what Mr. Rube Lloyd said to you on that [1358] occasion, and what you said to Mr. Rube Lloyd?

Mr. Painter: Objected to as hearsay, not binding on these Respondents, and no authority shown for Rube Lloyd to speak for the Respondents.

Trial Examiner Lindsay: He may answer.

The Witness: I walked up to Mr. Lloyd and asked him what would I do that day.

And he said, "There is nothing else to do. We are all through."

Q. (By Mr. Mouritsen) Do you recall any further conversation that took place at that time?

Mr. Painter: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: Not with Mr. Lloyd.

Q. (By Mr. Mouritsen) After that time, did you have a conversation with Gordon Hammond?

A. I did.

Q. About how long after your conversation with Rube Lloyd did your conversation with Gordon Hammond take place?

A. About thirty minutes or an hour.

Q. Where did the conversation with Gordon Hammond take place?

(Testimony of Eugene Clark Ely.)

A. In the office of the J. G. Boswell Company.

Q. Was anyone else present other than yourself and Gordon Hammond? A. No. [1359]

Q. Will you state what you said to Mr. Gordon Hammond, at that time, and what he said to you?

A. I told him that I had been laid off, and he said that I—did I consider myself laid off.

I said, "Yes. Rube Lloyd has been giving me my working orders for the past two months."

And he said, "Well. I don't know. There might be some work to do later on."

Q. Is that all of the conversation that you can recall? A. Yes.

Q. What did you do at that time?

A. I was there until about 8:30 and I came back to town.

Q. Now, on or about—strike that part of the question already given.

Since January 30th of 1939, have you had any other employment? A. I have not.

Q. Have you earned any money by working, since that time? A. I have not.

Q. Are you now employed? A. No.

Q. If the National Labor Relations Board did order your reinstatement with back pay, would you be willing to accept such employment with the J. G. Boswell Company? A. I would. [1360]

Q. Now, during the course of your employment with the J. G. Boswell Company, did you become a member of a labor organization? A. I did.

(Testimony of Eugene Clark Ely.)

Q. Can you give us the approximate date when you signed an application for membership?

A. January 2nd, 1939.

Q. And of what organization did you sign an application for membership?

A. The American Federation of Labor.

Q. And any Local of that organization?

A. It was named the Cotton Products and Grain Mill Workers' Union, Local No. 21798.

Q. And after January 2nd, 1939, were you initiated into membership in that organization?

A. January 19th, 1939.

Q. After you signed your application for membership in that Union, did you associate in and about Corcoran with other members of that Union?

A. I did.

Q. With what other members of that Union?

A. R. K. Martin, Elgin Ely, W. R. Johnston, O. L. Farr, Boyd Ely, "Coon" Powell.

Q. Now, directing your attention to the date on or about January 30th, 1939, what did you do after you returned home on [1361] that morning.

A. I didn't go home. I was driving through town and seen W. R. Johnston, and he got in the car with me and we was riding around in town.

Q. During the course of your riding around, did you ride out in the vicinity of the J. G. Boswell plant?

A. I did.

Q. Did you observe anything at the time when you rode in the vicinity of the J. G. Boswell plant?

(Testimony of Eugene Clark Ely.)

A. We were driving thataway when we seen a string of cars, about fifty or seventy-five, I guess, coming from down the railroad track; and they turned and went in the direction of the J. G. Boswell Company.

Q. What did you do at that time?

A. I was in a crowd for awhile going that way. I turned my car around and went to town and picked up R. K. Martin.

Q. Then what did you do?

A. We went back down to the plant.

Q. Will you state what you observed in the vicinity of the J. G. Boswell plant, if you observed anything?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: They was cars parked all over the side of the roads and around the scale office of the Boswell plant, [1362] and they was around, I would say, around 150 to 200 men around the picket car.

Q. Did you recognize any of the men around the picket car?

Mr. Painter: Objected to as incompetent, irrelevant and immaterial, and may my objection run to this entire transaction?

Mr. Walsh: So stipulated.

Mr. Mouritsen: So stipulated.

Did the witness answer that? [1363]

(Testimony of Eugene Clark Ely.)

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I did.

Q. (By Mr. Mouritsen) Will you state the names of as many of the men you can recall that you saw around the picket car on that occasion?

A. Boyd Ely, E. C. Salyer, Forrest Riley, Russel Slaybough, and Robert Wilbur, Gerald Snyders, Slim Jones.

Q. Do you know Slim Jones' first name?

A. No, I don't.

Q. Continue.

A. Beale Hanson, and Archer—I don't know his first name. He runs a trucking transportation here in town.

Clifford Hammond, and Hubbard; I don't know his first name.

Q. Do you know what work he did at that time?

A. Well, he was working for the J. G. Boswell Company.

Q. Can you give us the names of any other people that you recall seeing on that occasion?

A. Roy Filcher. That is about all that I can recall at the present time.

Q. Very well.

Now, will you state what you did and observed when you saw this crowd of men gathered around the picket car? [1364]

A. We drove up as close as possible—R. K.

(Testimony of Eugene Clark Ely.)

Martin, W. R. Johnston, and I—as close as possible to the picket car as we could.

Q. Was anything said at that time?

Mr. Painter: Objected to as hearsay and not binding on any of these respondents.

Trial Examiner Lindsay: He may answer.

Mr. Painter: And may it be deemed that my objection runs to any conversation in this particular matter?

Mr. Mouritsen: So stipulated.

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: You may answer.

The Witness: Yes. When we drove up there was several of them asked—they said, “What is this? Some more of them?”

And someone in the crowd spoke up and said, “Yes, I have seen that bunch before.”

Q. (By Mr. Mouritsen) Did you recognize any of the men who made any of those statements?

A. Loyd Liggett, and Bob Wilbur.

Q. Continue. Was anything further said at that time? A. Yes.

Q. By whom was it said, if you recall?

A. Forrest Riley and E. C. Salyer, Russel Slaybough, and Roy Filcher came up to the side that I was sitting on [1365] and opened the car door.

Q. Did they say anything at that time?

A. Yes.

Q. What did they say?

(Testimony of Eugene Clark Ely.)

A. They asked us was we some more of the union boys. And I said that we was.

Q. Was any further conversation had at that time?

A. Forrest Riley spoke up and said, "Well, we don't aim to have this God damned A. F. of L. in Corcoran."

Q. And did anyone else say anything further at that time?

A. Yes. E. C. Salyer said, "Put them out. What the hell are we waiting on?"

Q. At that time was anything said by R. K. Martin? A. Yes.

Q. Now, where was Mr. Martin at that time?

A. He was sitting beside me by the steering wheel of the car.

Q. And was W. R. Johnston present at that time? A. Yes.

Q. Where was he?

A. He was in the back seat.

Q. Now, will you tell us what R. K. Martin said at that time?

Mr. Painter: Your Honor, I would like to place a further objection to this question. It is self-serving. [1366]

Trial Examiner Lindsay: He may answer.

The Witness: Mr. Martin said, "Well, just who is doing this anyway?"

Q. (By Mr. Mouritsen) And did anyone make a reply to that?

(Testimony of Eugene Clark Ely.)

A. Yes, Loyd Liggett and E. C. Salyer, Roy Filcher, and Robert Wilbur.

Q. What did they say?

A. They said, "We, the Associated Farmers of Kings County."

Q. Was anything further said?

A. Mr. Martin said, "That is all I want to know. Let's go to town, boys."

Q. At that time was anything said about the number of people present? A. Yes.

Q. Do you recall by whom that was said?

A. No, there was some said we represented 200. And a voice back in the crowd said, "No, we represent—there is 300 farmers in this bunch, and we represent 1,000 more; and we don't aim to have this God damned A. F. of L. picketing in Corcoran."

Q. Do you recall whether or not anything further was said at that time?

A. No, I don't. We left and came back to town.

Q. Do you know whether or not at that time, at or about the time you left, the picket car left? [1367]

A. It didn't show up until about 10 or 15 minutes after we came down to Mr. Martin's house.

Q. And were you present at Mr. Martin's house when the picket car came back?

A. I was.

Mr. Mouritsen: You may inquire.

Trial Examiner Lindsay: We will have a short recess; a ten-minute recess.

(Testimony of Eugene Clark Ely.)

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Painter: Shall I proceed, your Honor?

Trial Examiner Lindsay: Yes.

Cross Examination

Q. (By Mr. Painter) Mr. Ely, how old are you?

Mr. Mouritsen: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Painter) I believe I understood your testimony, your direct testimony, that you worked during 1938 up until about March 24th. That is what you said, isn't it? A. Yes.

Q. Will you tell us what type of work you did in that period of time?

A. Up until the 24th? [1368]

Q. Yes.

A. I worked in the mill up until the 24th.

Q. Were you in the mill all of the time?

A. No.

Q. What did you do when you were in the mill?

A. I pushed the wheelbarrow and cleaned up the extra that came out of the expellers and fed them back through. They went back through the expellers again.

(Testimony of Eugene Clark Ely.)

Q. And was that the only type of work that you did in the mill? A. In the mill, yes.

Q. What other type of work did you do during that period up to March 24th?

A. In '38?

Q. Yes.

A. Well, I wouldn't be positive, but I think it was in '38 that I carried a clock in the yard, a watchman.

Q. And you think it was part of that period there? A. I wouldn't be sure.

Q. Now, did you do any other type of work during that time?

A. I helped the electrician when I first started.

Q. Was that the period between January and March of 1938? A. In '37.

Q. I am talking about 1938.

Now, in 1938, is it your testimony that you worked in [1369] the mill as you have described and this other work that you just mentioned a moment ago?

A. That is all I recall from January until March 24th of 1938.

Q. And then you were laid off at that time, were you? A. For a short time.

Q. Well, as a matter of fact, you came back to work about May, didn't you, of 1938, after that lay-off?

A. I don't remember what month that was.

Q. Well, it would be approximately there, would it not?

(Testimony of Eugene Clark Ely.)

A. I would say somewhere about there.

Q. At that time you just worked a couple of weeks, I think you said?

A. A couple or three weeks.

Q. Now, will you tell us what type of work you did at that time?

A. Running planting seed. I worked in the seed house emptying sacks of seed into the conveyor and carried it in and cleaned it.

Q. Did you do anything else during that period of time? A. No.

Q. Now, to refresh your memory, Mr. Ely, that was between the 5th of May and the 19th of May, was it not? A. I don't recall.

Q. It would be approximately that period, though, would it [1370] not? A. It could be.

Q. Then you were laid off again, is that correct? A. That is right.

Q. And you returned to work the next time along about July 7th? Do you recall that?

A. June or July. I wouldn't be positive.

Q. And then again you just worked a matter of a week or so, isn't that right?

A. Two or three weeks.

Q. And what type of work did you do during that period? A. Baling straw.

Q. Did you do any other type of work?

A. Not at that time.

Q. Now, as a matter of fact, Mr. Ely, that would be—I want to refresh your recollection—that would

(Testimony of Eugene Clark Ely.)

be between about July 7th and July 21st? Would that be about correct? A. I couldn't say.

Q. Well, it would be approximately that period of time? A. Somewhere along there, yes.

Q. Then you were employed again in October, I believe you testified? A. Yes.

Q. Now, what type of work did you do after that?

A. I was running a cotton drier. [1371]

Q. You ran a cotton drier? Anything else?

A. I ran a cotton drier up somewhere about December. Then I started to work for the construction gang.

Q. And you worked then during the month of November and during the month of December there at the plant, is that correct?

A. I don't know how far in December it was.

Q. You worked during the month of January, also, didn't you, at the plant?

A. Part of the time at the plant.

Trial Examiner Lindsay: You are talking about '39?

Mr. Painter: '39, in January.

Q. In other words, as I get your testimony, you worked during that period and you don't know whether you were laid off any intervals in there?

A. I was not.

Q. I see.

May I have that answer?

Trial Examiner Lindsay: During the month of January you are talking about, in 1939?

(Testimony of Eugene Clark Ely.)

Mr. Painter: Yes.

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Painter): When did you first attend a union [1372] meeting, Mr. Ely?

A. Well, I don't recall the first one I attended.

Q. Well, can't you give us an approximation of when it was?

A. It was some time after—I was in the house with O. L. Farr and several other union members, but I could not sit in on the meeting because I had not been initiated.

Q. Well, can you tell us what month that was?

A. January 1939.

Q. Had you attended any meetings or been in a house where a meeting was held at any time before that?

A. I was in the house where they had been held before then, yes.

Q. And when was the meeting where you were in the house prior to January?

Mr. Mouritsen: I object to the question upon the ground it is confusing.

Mr. Painter: I will reframe the question.

Q. When was the meeting which was held in a house where you were that occurred prior to January 1939?

A. It was here in town.

Q. I say when?

A. I couldn't say exactly.

(Testimony of Eugene Clark Ely.)

Q. Well, can you tell us the month?

A. January 1939. [1373]

Q. Well now, just a moment. I asked you before January. Were you—I will withdraw that question.

Were you in the same house where a union meeting was held in January of 1939 at any time?

Mr. Mouritsen: I object to the question, Mr. Examiner. It is a double meaning question. It is unintelligible when you analyze the question. Was he ever in a house where a union meeting was held?

Mr. Painter: I will withdraw the question.

Q. Did you ever attend a gathering of union members before January of 1939?

A. Not that I recall.

Q. Now, who were these men that you said you went down to Bakersfield with?

A. R. K. Martin, W. R. Johnston, and Elgin Ely. [1374]

Q. You had associated with these men considerably before that time, had you not?

A. With my brother and W. R. Johnston.

Q. As a matter of fact, you had two brothers that were in the Union long before that, isn't that correct? A. Yes.

Mr. Mouritsen: Long before what?

Q. (By Mr. Painter): Long before this trip to Bakersfield? A. Yes.

Q. Boyd Ely was one, and Elgin Ely was the other, is that right? A. Yes.

(Testimony of Eugene Clark Ely.)

Q. And, as a matter of fact, you had been around town with them and with Mr. Martin and Mr. Johnston long before you ever went to this Bakersfield meeting?

A. With Mr. Johnston and Elgin Ely. We all stayed at the same place, and we went in the same automobile.

Q. Now, which side of town do you live on, Mr. Ely?

A. I lived outside of the city limits.

Q. In which direction?

A. West a mile, and north about three-quarters of a mile.

Q. And as you came to this Bakersfield meeting I suppose you came in this main road from the West of the town, is that right?

A. The morning we came down to Mr. Martin's house, yes.

Q. Your trip wouldn't take you past the plant, would it? [1375]

A. Yes.

Q. To go to Bakersfield? A. Yes.

Q. Which road do you take from the town?

A. Down by the Justice of the Peace. It is a jail house and you turn and go south. The road goes about Southeast, right down by the J. G. Boswell Company plant.

Q. All right.

Now, referring your attention to the morning of January 30th, and your conversation with Gordon Hammond on that morning, will you tell us

(Testimony of Eugene Clark Ely.)

where, in what portion of the office, that conversation took place?

A. It was in the south end of the office in what some of the other boys have called the waiting room.

Q. And, Mr. Ely, at the time you came in there, do you recall Gordon Hammond telling you to go out and load some cotton? A. I do not.

Q. Do you recall any statement made by Gordon Hammond regarding the loading of cotton that morning? A. No.

Q. Isn't it a fact, Mr. Ely, that Mr. Hammond told you to go out and load some cotton?

A. He said there might be something to do later on.

Q. And didn't he mention specifically loading cotton? A. No. [1376]

Q. And is it not the further fact, Mr. Ely, that he made such a statement telling you to go out and load the cotton, and said, "Come on, let us go," and walked out the door?

A. No, he did not.

Q. You are sure of that?

A. I am positive.

Q. Did you go out on the picket lines that morning?

A. I wasn't on the picket line, except at 10:00 o'clock that morning.

Q. When did you leave the Boswell plant?

A. About 8:30 in the morning.

(Testimony of Eugene Clark Ely.)

Q. And after that, isn't it a fact that you went out and stayed on the picket line immediately upon leaving the plant? A. I did not.

Q. Have you ever applied for work at the Boswell Company since January 30th?

A. No. I didn't want to get thrown out of the plant.

Mr. Painter: I move, your Honor, that that part following the "No," be stricken as not responsive.

Trial Examiner Lindsay: It may go out.

Mr. Painter: That is all.

Redirect Examination

Q. (By Mr. Mouritsen): Mr. Ely, do you have a brother who works at the plant who is not a member of the Union? A. I have. [1377]

Q. And who is that? A. Jack Ely.

Mr. Mouritsen: Nothing further.

Mr. Clark: May I ask a question or two, your Honor?

Trial Examiner Lindsay: Yes.

Recross Examination

Q. (By Mr. Clark) Mr. Ely, did I understand you to say on your cross examination that during the fall of 1938 you were living with one of your brothers and with another man?

A. I was staying home with my parents, and my brother was staying home and W. R. Johnston was boarding with my folks.

(Testimony of Eugene Clark Ely.)

Q. I see.

Which brother was that? A. Elgin Ely.

Q. I see.

Now, during the times that you were laid off from work at the Boswell plant during 1938, did you go to the plant to apply for work?

A. I did not.

Q. Did the plant send someone to your home to ask you to come back? A. They did.

Q. Did Gordon Hammond ever come on any of those occasions to put you back on?

A. In 1938 he come, in the summer he came to my house. [1378]

Q. I see.

And he came to the house where you were living with this brother and with Mr. Johnston, is that right? A. And my folks, yes.

Mr. Clark: That is all.

Mr. Mouritsen: No further examination.

Trial Examiner Lindsay: I have just one question.

Q. Did anyone come and ask you to come back to work since January 30th? A. No.

Q. Of 1939? A. No.

Trial Examiner Lindsay: That is all.

(Witness excused.)

United States
3
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Respondents.

Transcript of Record

In Seven Volumes

VOLUME V

Pages 1939 to 2433

FILED

SEP 15 1942

PAUL P. O'BRIEN,
CLERK

Upon Petition for Enforcement of An Order of the
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Upon Petition for Enforcement of An Order of the
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Mr. Walsh: Mr. Boyett, please.

J. B. BOYETT

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh): Will you state your full name, please? A. J. B. Boyett.

Q. Where do you live, Mr. Boyett?

A. Corcoran.

Q. And what is your business or occupation?

[1379]

A. Insurance and farming.

Q. How long have you lived in Corcoran?

A. Fourteen years—fifteen years.

Q. You have engaged in the insurance business and farming all that time?

A. Farming about six years—seven years; insurance about five.

Q. Which occupation takes the most of your time, Mr. Boyett?

A. I would say about 50-50.

Q. How many acres do you farm?

A. Twelve hundred.

Q. And what are the crops that you raise?

A. Cotton, grain, alfalfa.

Q. And what is the insurance business that you engage in? Is that life insurance?

A. General; a general line.

Q. Life, accident, fire, hail, windstorm?

(Testimony of J. B. Boyett.)

A. Not hail. We don't have hail here.

Q. You don't have hail?

Mr. Clark: Not in this country.

Mr. Walsh: I farmed in a different country.

Q. Mr. Boyett, I believe you were served with a subpoena to produce certain records in your capacity as the president of the Associated Farmers.

Mr. Clark: I object to that on the ground it is not shown— [1380] the gentleman has not been asked yet whether he is or not the president.

Mr. Walsh: I asked him if he was served with a subpoena in that capacity. I won't quarrel with you.

Q. Mr. Boyett, I believe you are the president of the Associated Farmers of Kings County, are you? A. I am.

Q. And you received a subpoena calling for the production of certain records of that organization? A. I did.

Q. Do you have those records here?

A. My attorney has them.

Mr. Walsh: Will you produce them at this time?

Mr. Clark: All right.

At this time, Mr. Examiner, for the record I would like to make the following return to the subpoena directed to the Associated Farmers of Kings County, Inc., and J. B. Boyett, president, dated May 6th, 1939.

Mr. Walsh: That number is 12161?

Mr. Clark: 12161 is correct, Mr. Walsh.

(Testimony of J. B. Boyett.)

By way of response to Paragraph 1, calling for the Articles of Incorporation of the Associated Farmers of Kings County, Inc., August, 1938, I will state that there is no such document in existence, but I am submitting to counsel for the Board a certified copy of the Articles of Incorporation [1381] of the Associated Farmers of Kings County, Inc., filed on October 18th, 1938, with the Secretary of the State of this State, and signed by the organizers of that association under date of September 29th, 1938, and acknowledged on the last mentioned date before a Notary Public by the organizers——

Mr. Walsh (Interrupting): If counsel will——

Mr. Clark (Interrupting): Just a moment—to which is attached the certificate of the Secretary of State of this State certifying to the genuineness of it, and a further communication from the Franchise Tax Commissioner giving this organization the rating of a non-profit corporation, which I would like to be kept with that Exhibit, Mr. Walsh.

Mr. Walsh: If counsel will state to me that this is the Articles of this corporation——

Mr. Clark (Interrupting): A certified copy.

Mr. Walsh (Continuing): ——under which the Associated Farmers of Kings County, Inc. were operating during the periods under investigation in this proceeding, I will accept them.

Mr. Clark: That is correct, is it not, Mr. Boyett?

(Testimony of J. B. Boyett.)

The Witness: That is correct.

Mr. Walsh: Thank you.

Mr. Clark: Very well.

In response to the second call of the subpoena, being for the by-laws of the Associated Farmers of Kings County, Inc., I now hand to counsel for the Board the original by-laws which [1382] are signed by the Directors of the organization under date of September 29th, 1938.

(The document referred to was passed to Mr. Walsh.) [1383]

Mr. Walsh: Mr. Clark, do you have copies of these?

Mr. Clark: We will make some arrangement with you later so far as copies are concerned. I haven't got copies now.

Mr. Walsh: Thank you.

Mr. Clark: In response to the third call, being the membership list of all members and former members of the Associated Farmers of Kings County, Inc., I hand counsel for the Board a list which I have had prepared since the commencement of the present hearing and concerning which I would like to ask Mr. Boyett a few questions, if I may, for the record.

Mr. Walsh: Certainly.

Voir Dire Examination

Q. (By Mr. Clark) Mr. Boyett, I will show you what purports to be a list of members of the Associated Farmers of Kings County dated as of

(Testimony of J. B. Boyett.)

March 1st, 1938. May I ask you whether or not that was prepared under your direction?

A. (Examining document) Yes.

Q. Now, does that list contain the names of all persons who have ever been members of the Associated Farmers of Kings County since its organization and up to March 1st of this year?

A. It does.

Mr. Clark: Very well.

Mr. Walsh: Off the record. [1384]

(Discussion outside the record.)

Mr. Clark: I think there are certain members called associate members. I don't know whether it does indicate that.

Q. There have been no members dropped out, have there? A. No.

Q. In other words, persons are entitled to membership upon the payment of the annual dues, is that right? A. That is right.

Q. And people who appear on this list, are those who have paid dues? A. Paid for 1939.

Q. And the organization is less than a year old, is that correct? A. That is correct.

Q. Now you have a distinction too as between your regular members who are engaged in farming operations——

A. (Interrupting): That is right.

Q. (Continuing) ——and so-called associate members, is that true? A. That is true.

Q. Is there any record we can get which will

(Testimony of J. B. Boyett.)

show who the associate members are, or would that appear only on their cards?

A. I can't answer that question, Mr. Clark. [1385]

Q. These include both the regular members and the associate members, is that right?

A. Mr. Botts is here.

Q. Mr. Bottis is who? Is he the secretary?

A. Mr. Botts is secretary-treasurer.

Mr. Clark: Very well. With that one reservation we submit that list to you in response to the third call of the subpoena.

Mr. Walsh: All right. Thank you.

(The document referred to was passed to Mr. Walsh.)

Mr. Clark: Now, as to the fourth call, we are taking a position, Mr. Examiner, and Mr. Walsh, that the call is too general to be enforceable. In other words, it is a call for minute books or other records containing all records of the meetings of members, board of directors, the executive committee, or other committees, from the date of the organization of the Associated Farmers of Kings County, Inc., to the date hereof, and I don't propose, unless forced to do so by the Federal Court, to produce all of the records for the organization.

But I will make this statement for the record, and I will verify it by the witness under oath, first, there is no minute book, that there are minutes of certain meetings kept on separate sheets of paper,

(Testimony of J. B. Boyett.)

all of which have been turned over to me by Mr. Boyett; that those are meetings of [1386] the directors of the organization; and that there are no minutes of any executive committee or any other committee; and further, that among those minutes the only one which in any way mentions any of the matters under investigation here is the minutes of a meeting of Thursday, January 26, 1939, at Peden's Cafe in Hanford, and which I will gladly turn over to counsel. I am standing on it, and I will mark the portion on which I want to indicate to your attention.

And as to the rest of the minutes, of course, we take the position that we aren't under any duties to submit them.

Mr. Walsh: Will you submit this to me, and maybe save us all a lot of difficulty, that you have examined the minutes of the directors' meetings since the inception of this organization and that the only reference to matters under investigation in this proceeding are contained in the minutes of January 26, 1939?

Mr. Clark: I will make that statement, and that is entirely true, that the only reference in any way, shape or form to any fact or piece of evidence even that has been admitted in this proceeding is contained opposite the check mark in the minutes that I have handed you.

Mr. Walsh: I will then accept this as the return of call 4 of the subpoena.

(Testimony of J. B. Boyett.)

Mr. Clark: With respect to call 5 which is with respect to copies of all books, pamphlets, literature, and [1387] printed or mimeographed matter distributed or sold by the Associated Farmers of Kings County, Inc., to its members with regard to labor organizations or labor relations or both, of course irrespective of the generalities of it, I will make this statement for the record and ask the witness to corroborate it: No literature has been sold or distributed to anyone by the Associated Farmers of Kings County, Inc.

Is that true?

The Witness: No.

Mr. Clark: The answer is no?

The Witness: No.

Mr. Clark: Now, in response to that call, I will hand you first a printed document entitled "Declaration of Policy for Agricultural Labor" endorsed by the Associated Farmers of Kings County, Inc., and second, a pamphlet entitled "The Associated Farmers of California," and I will ask you, Mr. Boyett, whether I am correct in stating that with the exception of the copy of the state bulletin which I showed you those two documents which I have handed to Mr. Walsh are the only things sent out to your membership.

The Witness: That is correct.

Mr. Clark: That is call No. 5. All right.

Mr. Walsh: May I ask a question while we are on that?

(Testimony of J. B. Boyett.)

Mr. Clark: Yes.

Mr. Walsh: Mr. Boyett, this publication which is en- [1388] titled "From Apathy to Action" which is published by a State publication, that goes to all of your members as well?

The Witness: Yes.

Mr. Clark: That is direct from the state organization?

The Witness: Yes.

Mr. Walsh: You have nothing to do with that except supply the names to the state publication?

The Witness: That publication has been changed to the Associated Farmers.

Mr. Walsh: The name of the publication is changed?

The Witness: Yes.

Mr. Clark: Now, in response to the last call of the subpoena, I want to ask the witness a couple of questions.

Q. I show you, Mr. Boyett, what purports to be a printed communication in which the opening sentence is: "You are eligible for membership in the Associated Farmers of Kern County, Inc.," and I will ask you whether or not you have ever seen that before.

A. (Examining document) I have.

Q. Now, am I correct in stating that a similar document similar in all respects to the one which you have identified except that the words "Associated Farmers of Kings County, Inc.," was sent

(Testimony of J. B. Boyett.)

out to various persons in this county by this organization? A. That is true. [1389]

Mr. Clark: And that comes in with the two documents I have just handed you, with that one change, Mr. Walsh.

The next call of the subpoena, being 6, calls for copies of all books, pamphlets, literature, and printed or mimeographed matter furnished by the Associated Farmers of California, Inc., to the Associated Farmers of Kings County, Inc., to be used by the latter, or to be distributed to the latter's members, with regard to labor organizations or labor relations or both, or with regard to the organization of county affiliates of the Associated Farmers.

In that connection, I will make the statement that there is a raft of stuff, general mimeographed information in bulk, may it please your Honor, which I don't propose to produce. It has nothing to do with this case, and the only thing which in any manner bears on this controversy by any stretch of the imagination or any evidence produced here is a copy of the bulletin of the Associated Farmers of California, Incorporated, entitled "From Apathy to Action," being the issue of February 15, 1939, in which there is an article concerning the Boswell situation and referring to it as happening a little over a week ago.

Mr. Walsh: Now, if counsel will state to me that he is familiar with the publications issued by the As-

(Testimony of J. B. Boyett.)

sociated Farmers of California, Inc., and that the only reference to the current matter under investigation appears in this [1390] bulletin, volume I, No. 76, published February 15, 1939, the title of the bulletin being "From Apathy to Action," I will accept that as being a return to that paragraph in the subpoena.

Mr. Clark: I will have to make my answer this way, Mr. Walsh: I am generally familiar with the character of the material that goes out from the State office, and so far as I know, the bulletin which I have handed you is the only thing which in any way refers to this particular controversy.

Q. But may I ask you, Mr. Boyett, if there is anything other than the issue of the bulletin which I have just handed Mr. Walsh which has come to you from the State organization concerning this controversy?

A. None at all. That is the only thing I have knowledge of.

Mr. Walsh: I will accept that as a return to paragraph 6 of the subpoena.

Mr. Clark: Now, the seventh call is for a record of all receipts, showing from whom received, and expenditures showing to whom paid, from the date of the organization of the Associated Farmers of Kings County, Inc., to date hereof, which I suppose is a call for all of the financing of this particular organization.

Mr. Walsh: That is correct.

(Testimony of J. B. Boyett.)

Mr. Clark: And in which respect I will produce, Mr. [1391] Walsh, what purports to be a financial report as of November 22nd, 1938, which is the most recent thing I could get.

Mr. Walsh: What was the date?

Mr. Clark: November 22nd, 1938. And which shows first the amount of contributions from members and, secondly, indicates what I think you are interested in, and that is a contribution by J. G. Boswell Company in the sum of \$235.55, which was made direct to the state organization, among others.

And with that I also want to produce as explanatory of it a copy of a letter purportedly written by Robinson of the Boswell Company to Camp, treasurer of the Associated Farmers of California, explaining to what matter—to what items a check is applicable and which you see gets us the \$235.55 which the first statement I have handed you shows was contributed by Boswell Company for that year to the state organization and credited to the assessment of the Kings County Association.

If you want to follow up beyond that the assessments from individuals—or rather the payments by individual members—I don't see them on here—I think you can get that information from the witness on the stand.

Mr. Walsh: I will accept provisionally the return to 7. We can probably work something out that will satisfy that particular thing so we won't quarrel seriously about it [1392] at this time.

(Testimony of J. B. Boyett.)

Mr. Clark: I don't think so. We can put the secretary on the stand if you want to go any further with it.

Q. Now, responding to paragraph 8 of the subpoena, Mr. Boyett, I will ask you whether or not you have in your possession or in any way under your control any correspondence from the Associated Farmers of Kings County, Incorporated to the Associated Farmers of California, or vice versa, or between the Associated Farmers of Kings County and the Sheriff of Kings County, District Attorney of Kings County, Chiefs of Police of Corcoran and Hanford, State Bureau of Criminal Identification, or any of those agencies, relative to the identification or investigation of any person engaged in organizing trade unions involving any of the persons who have been named in the proceedings?

A. I have not.

Mr. Clark: All right.

Mr. Walsh: May I ask a question or two?

Mr. Clark: Yes, go ahead.

The Witness: Pardon me. I will qualify that. There might be a letter or two of some routine business with the state organization that we might dig up that has no bearing on it.

Mr. Walsh: You do find it necessary to correspond with the State Office, don't you? [1393]

The Witness: Yes.

Mr. Walsh: Do you know, Mr. Boyett, whether during this period, we will say from the beginning

(Testimony of J. B. Boyett.)

of your organization last September up until now you have had any occasion to correspond with the state organization concerning Mr. Prior, for instance?

The Witness: None whatever; no sir.

Mr. Walsh: Do you know of any of the other officers of the local organization who might correspond with the state organization about Mr. Prior?

The Witness: No, I don't.

Mr. Walsh: Or with any of these other officers named such as the Sheriff or District Attorney or the Chief of Police or Corcoran or Hanford?

The Witness: No, I haven't.

Q. (By Mr. Clark) Mr. Boyett, we are taking both the spirit and the letter of your answer; and the thing we want to know is this: Whether or not there has been any correspondence between you and any other officer of the Associated Farmers of Kings County to your knowledge with respect to this matter which is under investigation with any of these agencies which I have named.

A. None.

Mr. Walsh: All we want to know is what the facts are, Mr. Boyett. [1394]

Mr. Clark: On the last call, Mr. Walsh, correspondence from date of organization of Associated Farmers of Kings County, Inc., to the date hereof with J. G. Boswell Company relating to financial contributions, labor policy, labor relations, labor disputes, or labor disturbances, I would like to check and have until morning to respond to that.

(Testimony of J. B. Boyett.)

Mr. Walsh: That is satisfactory with me.

Mr. Clark: That is all except the response to the seventh call and the ninth.

Mr. Walsh: That is correct.

Do you desire to have these identified formally?

Mr. Clark: I wish you would identify them and then we can make some arrangement for the return to these people, photostatic copies, or something like that.

Direct Examination

(Continued)

Q. (By Mr. Walsh) Mr. Boyett, I will hand you a document which I have marked for identification as Board's Exhibit 9 and ask you to tell me what that is, please.

(Thereupon the document above referred to was received and marked as Board's Exhibit No. 9 for identification.)

The Witness: (Examining document) It is the articles of incorporation of the Associated Farmers of Kings County, Incorporated.

Q. (By Mr. Walsh) There are other documents attached to it, are there not? [1395]

A. Yes, there is a certification by Frank C. Jordan, Secretary of State, and a letter of transmittal of that document.

Mr. Walsh: I would like to offer that at this time as Board's Exhibit 9.

Mr. Clark: No objection, except on our general

(Testimony of J. B. Boyett.)

objection as to the jurisdiction of the Board, but not as far as the authentication is concerned.

Trial Examiner Lindsay: Board's Exhibit 9 received in evidence.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 9.)

BOARD'S EXHIBIT No. 9

Chas. J. McColgan
Commissioner

State of California
Office of
Franchise Tax Commissioner
Sacramento
205 Plaza Building

October 18, 1938

Associated Farmers of California Inc.,
472 Russ Bldg.
San Francisco, California.

Re: Associated Farmers of Kings County Inc.

Gentlemen:

The above named non-profit organization shall not be taxed under the provisions of the Bank and Corporation Franchise Tax Act and need not file an annual return or any further showing with respect to its status under such Act, unless it changes

(Testimony of J. B. Boyett.)

the character of its organization or operation, or the purpose for which it was organized.

Yours very truly,

CHAS. J. McCOLGAN

Franchise Tax Commissioner

By BURL D. LACK

Franchise Tax Counsel.

BDL:ER

CC—Mr. M. W. McDonald

CC—Mr. J. P. Hollings

[Endorsed]: Filed 6-1-39.

Q. (By Mr. Walsh) I will hand you a document which has been marked for identification as Board's Exhibit 10, and will you tell me what that is, please?

(Thereupon the document above referred to was received and marked as Board's Exhibit No. 10 for identification.)

The Witness (Examining document): That is the by-laws of the Associated Farmers of Kings County, Incorporated.

Q. (By Mr. Walsh) Mr. Boyett, are those the by-laws under which you are currently operating?

A. Yes, sir.

Q. Have there been any amendments to the by-laws that are not reflected in that document?

A. There is one minor amendment I believe in the third [1396] meeting. It is minor.

(Testimony of J. B. Boyett.)

Q. Do you recall generally what it was?

A. I don't.

Mr. Clark: Can we get a copy of it and produce it in the morning?

The Witness: It is in there (Indicating). It is immaterial. It is short. There is one amendment that doesn't appear.

Mr. Walsh: I would like to offer as Board's Exhibit 10 the by-laws of the Associated Farmers of Kings County.

Trial Examiner Lindsay: No objection to Board's Exhibit 10 except the general one?

Mr. Clark: Except the general one on the ground the Board has no jurisdiction over this organization.

Mr. Walsh: I will so stipulate as to the general subject matter.

Trial Examiner Lindsay: Board's Exhibit 10 received in evidence.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 10.)

Mr. Clark: Included in that objection I would like the record to show it is our position, Mr. Examiner, that this organization, the Associated Farmers of Kings County, is not an employer within the meaning of the Act.

Mr. Walsh: I will stipulate that that may also run to [1397] the entire line of inquiry.

Mr. Clark: You are directing my attention, Mr.

(Testimony of J. B. Boyett.)

Boyett, to this language in the minutes of a meeting of September 19, 1938:

“A change in the by-laws was then indicated and the following motion by Mr. Orchard, seconded by Mr. Farmer, was put before the meeting.”

It is a good name for the Associated Farmers.

“That any person or corporation not actively engaged in farming be eligible for associate membership without the privilege of voting.”

The motion carried.

Is that the only change there has been to the by-laws which I have just produced—delivered to Board’s counsel?

The Witness: Yes.

Mr. Walsh: Then I will stipulate with counsel that that language which you have just now read may be considered as part of Board’s Exhibit 10.

Mr. Clark: Very well.

Q. (By Mr. Walsh) Mr. Boyett, I will hand you a document consisting of several sheets of paper, which has been marked for identification as Board’s Exhibit 11. Will you tell me what that is, please?

(Thereupon the document above referred to was received in evidence and marked as Board’s Exhibit No. 11, for identification.) [1398]

The Witness (Examining document): That is a list of membership of the Associated Farmers of Kings County, Incorporated, both regular and associate.

(Testimony of J. B. Boyett.)

Mr. Clark: As of what date, please?

The Witness: As of March 1st, 1939.

Q. (By Mr. Walsh) Mr. Boyett, have there been any new members taken in since that time that you recall?

A. I am sure there are; not very many.

Q. There have been?

A. Yes; not very many.

Mr. Walsh: I would like to offer Board's Exhibit 11.

Trial Examiner Lindsay: Received.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 11.)

Q. (By Mr. Walsh) I will hand you a document which has been marked for identification as Board's Exhibit 12. Can you tell me what that is, please?

(Thereupon the document above referred to was received and marked as Board's Exhibit No. 12 for identification.)

The Witness (Examining document): That is a directors' meeting—strike that.

That is the minutes of the directors' meeting held Thursday, January 26, 1939, in Peden's Cafe, Hanford.

Mr. Walsh: I would like to offer at this time Board's Exhibit 12 which has just been described by the witness. [1399]

It is a typewritten sheet of paper, apparently of

(Testimony of J. B. Boyett.)

three-hole notebook sheet, on which writing appears on both sides.

The matter I particularly want to direct the Examiner's attention to in this exhibit appears in the next to the last paragraph.

Mr. Clark: Will you wait until I get that, Mr. Walsh?

Mr. Walsh: Yes.

Mr. Clark: You might as well read that in and return the exhibit to us, because I don't think there is anything else in that you want.

Mr. Walsh: With the Examiner's consent, I will read the paragraph of this exhibit which bears upon this inquiry and ask leave to withdraw Board's Exhibit 12.

Mr. Clark: And to which we object, Mr. Examiner, on the ground it is incompetent, irrelevant and immaterial—not to the withdrawal, but to the introduction of any of it in evidence.

Trial Examiner Lindsay: Yes.

Mr. Walsh: The portion of this exhibit I desire to read is as follows:

“After a short review of the picketing of the Boswell plant in Corcoran, President Boyett called upon Mr. Dula and Pennybaker of Tulare County to explain the origin, function, and working arrangement of the Farmers' Transporta- [1400] tion Association by which the farmers of Tulare and several southern counties had succeeded in keeping the flow of farm

(Testimony of J. B. Boyett.)

produce to the Los Angeles markets open despite 'hot cargo' charges by radical elements. The meeting of the directors unanimously adopted a resolution moved by Mr. Haag and seconded by Mr. Harp that the Kings County unit of Associated Farmers cooperate with the Farmers Transportation Association."

I would like to put that in the record in lieu of Board's Exhibit 12, your Honor. I am now returning to counsel the minutes of the directors' meeting.

Mr. Clark: Thank you very much.

Trial Examiner Lindsay: The substitution by reading into the record which has been made is accepted and Board's Exhibit 12 has been returned to Mr. Clark.

Mr. Walsh: And the withdrawal permitted?

Trial Examiner Lindsay: And the withdrawal permitted.

Q. (By Mr. Walsh) Mr. Boyett, I will hand you four documents which are numbered for identification as Board's Exhibit 13(a), 13(b), 13(c), and 13(d), and would you identify those for me, please?

(Thereupon the documents above referred to were received and marked as Board's Exhibit Nos. 13(a), 13(b), 13(c), and 13(d), for identification.)

The Witness (Examining documents): 13(a)

(Testimony of J. B. Boyett.)

is an explana- [1401] tion of who is eligible for membership in the Associated Farmers of Kings County, Inc.

Q. (By Mr. Walsh) As I understand, Exhibit 13(a) is a pamphlet or piece of printed matter issued to the persons located or residing in Kern County, which would be eligible, and the Kings County would be the same if you substituted the name from Kern to Kings?

A. That should be Kings.

Mr. Clark: There was such a notice circulated among the people in Kings County, wasn't there?

The Witness: That is correct.

Mr. Walsh: For the purpose of this exhibit, Mr. Clark, could we just change by interlineation the word Kern to Kings?

Mr. Clark: I think it will be clear then so far as the record is concerned. You should do that.

The Witness: 13(b) is a printed pamphlet gotten out by the Associated Farmers of California describing the general purposes and basic policies and so on of the state organization.

13(c) is a declaration of policy for agricultural labor which was endorsed by the state organization and which has since that time been endorsed by most of the county units. [1402]

Q. (By Mr. Walsh) Including Kings County?

A. Including Kings County.

13-D is a semi-monthly publication "From Apathy to Action," which has since been changed to "The Associated Farmers."

(Testimony of J. B. Boyett.)

Q. Do I understand that this goes to all members of the County units of the Associated Farmers?

A. That is correct.

Mr. Walsh: Mr. Examiner, at this time I desire to offer Board's Exhibit 13-A, 13-B, 13-C and 13-D. Counsel have stipulated that we may by interlineation in Board's Exhibit 13-A change the name "Kern" to "Kings," to reflect the exact wording of the document that was issued by this unit. And I desire to direct the Examiner's particular attention to Board's Exhibit 13-D, the first article appearing in that publication "From Apathy to Action," entitled "The Minority Rule."

I desire to offer all four of these at this time.

Trial Examiner Lindsay: Board's Exhibits 13-A, B, C and D are received in evidence.

(Thereupon, the documents above referred to were received in evidence and marked as Board's Exhibits Nos. 13-A, 13-B, 13-C and 13-D respectively.)

Mr. Clark: Subject to the same objection, may it please the Examiner?

Trial Examiner Lindsay: Yes. [1403]

Mr. Clark: May this be off the record, Mr. Examiner?

Trial Examiner Lindsay: Yes. Off the record.

(Discussion outside the record.)

Trial Examiner Lindsay: On the record.

Q. (By Mr. Walsh) Mr. Boyett, I will hand

(Testimony of J. B. Boyett.)

you three sheets of paper which have been marked for identification as 14-A, 14-B and 14-C, and will you explain those and tell me what they are, please?

(Thereupon, the documents above referred to were marked as Board's Exhibits Nos. 14-A, 14-B and 14-C respectively, for identification.)

The Witness: (Examining documents) 14-A is a financial report of the Associated Farmers of Kings County, Inc., as of November 22nd, 1938.

Q. (By Mr. Walsh) The little paper has been marked as "B"? A. Yes.

14-B is an itemized statement of the items appearing in 14-A.

Mr. Clark: From whom did you obtain the slip that you have called an itemized statement?

The Witness: From Mr. Botts, our secretary.

Mr. Clark: The secretary of the organization?

The Witness: Yes.

Mr. Clark: Was that in response to a request made from [1404] you to him to furnish you with the financial status of the Company as of the time this hearing commenced?

The Witness: Yes.

Mr. Clark: Not the Company; I mean of the Association?

The Witness: That is correct.

14-C is a letter from the J. G. Boswell Company, a copy, I would say, a letter from the J. G. Boswell Company to Mr. W. B. Camp explaining remittance to the State organization. [1405]

(Testimony of J. B. Boyett.)

Q. Now, may I ask a question or two concerning 14-B to clarify it a little bit.

14-B is, or at least appears to me to be, an adding machine page with some adding machine figures. Is that correct? A. That is correct.

Q. The first item that appears there is "Barbeques \$500.39." Is that correct?

A. That is correct.

Q. And "Office \$83.90?" A. Yes.

Q. "Cost of membership \$370.88?"

A. Yes.

Q. And a total of \$955.17.

Now, can you tell me for what period of time those figures cover, Mr. Boyett?

A. I would rather have the secretary answer that, Mr. Walsh, if it is all right.

Q. If you don't know, it is all right. I don't care. A. I would say it is up to this date.

Q. To that date? A. Yes.

Mr. Clark: By "this date," what do you mean?

Mr. Walsh: November 22nd, referring to the date the financial statement was made.

All right. Then I will ask— [1406]

The Witness (Interrupting): I pay very little attention to that.

Mr. Walsh: I would like to offer at this time Board's Exhibit 14-A, 14-B and 14-C in evidence.

Trial Examiner Lindsay: 14-A, B and C are received in evidence.

(Thereupon, the documents above referred to

(Testimony of J. B. Boyett.)

were received in evidence and marked as Board's Exhibits Nos. 14-A, 14-B and 14-C respectively.)

Q. (By Mr. Walsh) Now, Mr. Boyett, will you tell us—may I ask you this question: Are you a Director of the Associated Farmers of California, Inc.?

A. I am.

Q. Now, will you tell us for the purpose of the record something about the set-up of the State organization, and how you happened to become a director of it?

Mr. Clark: I object to that as incompetent, irrelevant and immaterial. As to the materiality, Mr. Examiner, I should think the records of the State organization would be the best evidence, and I am quite sure that I could state, very briefly, the contents of them in as much as I prepared the Articles for the State organization.

Mr. Walsh: I probably can state it too.

Mr. Clark: I think you can if you had access to the LaFollette Committee report. [1407]

Trial Examiner Lindsay: Let us not argue.

Mr. Clark: Which I think is probable. I will stand on the objection.

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: He may answer. You may have an exception.

(Testimony of J. B. Boyett.)

The Witness: As I understand the State organization, it is composed—in other words, the State organization is composed—of about 43 members which represent that many organized Counties, and in most instances the president of each County unit serves as a State director. Then the State organization would have forty-three members which are directors from each County, and that composes the entire membership of the Associated Farmers of California.

Q. (By Mr. Walsh) Now, are the directors compensated for their services?

A. No.

Q. You draw no pay for being a director?

A. No pay.

Q. Do you draw pay for being president of the Associated Farmers of Kings County?

A. None whatever.

Q. Now, is the Associated Farmers of Kings County—strike [1408] that, please.

Board's Exhibit 9, which is the Articles of Incorporation of the Associated Farmers of Kings County, were filed on October 18th, 1938?

A. That is right.

Q. Now, were you—

Mr. Clark (Interrupting): I think the document shows October 18th, if I may interrupt.

Mr. Walsh: That is what I meant to say, October 18th, 1938.

Q. You were one of the organizers, I believe?

(Testimony of J. B. Boyett.)

A. That is correct.

Q. Will you tell us something about the pre-organizational activities of your group before you filed for your charter?

A. There was quite a demand among many of our farmers for an organization in Kings County. It simply gained momentum—I don't know how it came about. We met the first time in this hall September 8th for an organizational meeting. At that meeting directors were elected and a further date set for O. King the by-laws, passing on the by-laws.

Q. Was there any meeting held between September 8th, 1938, and October 18th, 1938?

A. Yes, there was, Mr. Walsh. Just a minute. (Examining paper.) We met in this hall September 8th, 1938, which was the organizational meeting. [1409]

Q. Yes.

Mr. Clark: Mr. Examiner, may the record show that "this hall," indicates the American Legion Hall?

Trial Examiner Lindsay: Yes.

The Witness: At that meeting, nine directors were elected.

Q. (By Mr. Walsh) Now, was there any meeting between then and the time that you signed the Articles on the 29th of September, 1938?

A. We had a meeting on September 12th in the Farm Advisor's Office in Hanford, and adopted the by-laws.

(Testimony of J. B. Boyett.)

Q. Those by-laws are the ones which have been introduced in evidence here as Board's Exhibit 10?

A. That is correct.

Q. Now, will you tell me this: Who prepared the by-laws for you?

A. I believe Mr. Clark did. I am not sure about that.

Mr. Clark: I move that that go out as not responsive, and, as a matter of fact, it is not the fact and it shows you the defect in hearsay testimony: "I believe that Mr. Clark did."

Trial Examiner Lindsay: Just a moment. Now, let us not get—

Mr. Clark (Interrupting): I ask that that go out.

Trial Examiner Lindsay: That is *that is* necessary, just ask that it go out. [1410]

It may go out.

Q. (By Mr. Walsh) Now, Mr. Boyett, do you know who prepared the by-laws for you?

A. We received the by-laws from the State organization, Mr. Walsh.

Q. Did you also receive the form of the application for the Articles of Incorporation from the State organization? A. Yes, we did.

Q. Now, were those furnished to the County organization without expense to the organization?

Mr. Clark: I object to that on the ground it is incompetent, irrelevant and immaterial.

Mr. Walsh: It is quite material.

(Testimony of J. B. Boyett.)

Trial Examiner Lindsay: He may answer.

The Witness: I don't remember.

Q. (By Mr. Walsh) Do you recall having paid any fees at all in connection with the incorporation of it?

A. I would answer that by "No," Mr. Walsh.

Q. You paid no fees at all?

A. According to my knowledge.

Q. Is there anyone who would have a better recollection of it than you, or would your records—

A. (Interrupting): The secretary-treasurer, Mr. Botts.

Q. Now, do you recall when you were elected a director of the State organization—withdraw that for a moment— [1411]

Were you elected president of the Kings County organization? A. Yes.

Q. At once? At the early meeting?

A. At the meeting of September 12th.

Q. September 12th? A. That is right.

Q. You were also elected a director, I suppose?

A. Elected a director on September 8th at the organizational meeting.

Q. The names of these gentlemen who signed the Articles of Incorporation—strike that.

In Board's Exhibit 9, there appears, in Paragraph 4 on page 2, the following statement:

"The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

(Testimony of J. B. Boyett.)

- “1. J. B. Boyett, Corcoran, California.
- “2. W. L. Haag, Hanford, California.
- “3. E. A. Montgomery, Hanford, California.
- “4. E. E. Howes, Hanford, California.
- “5. E. J. Harp, Corcoran, California.
- “6. George A. Smith, Junior, Stratford, California.
- “7. Steve——”

The Witness: (Interrupting) Steve Giacomazzi.

Mr. Walsh: That is spelled G-i-a-c-o-m-a-z-z-i, Hanford, California. [1412]

“8. Charles A. Kimble, Hanford, California.

“9. Hugo Buckner, Hanford, California.”

Now, did those gentlemen all become directors?

A. They did.

Q. Are they still serving? A. Yes.

Q. As directors? A. Yes.

Q. Has there been any resignations or changes in the board of directors? A. None whatever.

Q. Now, Mr. Boyett, going back to the meeting of September 8th, do you recall who were present here in this hall when your first meeting was held?

A. No, I can't. We had a very good crowd. The hall was——

Q. (Interrupting): Pretty well filled?

A. Full of people.

Q. Did you have any—was there present any representative of the State organization to explain the functions and set-up of the Associated Farmers?

(Testimony of J. B. Boyett.)

A. Mr. S. H. Strathman, S-t-r-a-t-h-m-a-n, was here.

Q. Will you tell us what position he occupies with the Associated Farmers of California, I believe?
A. Field Secretary.

Q. And I take it that he explained to you the manner in which [1413] the system of the Associated Farmers of California worked, is that correct?

A. That is correct.

Q. Now, how was the notice of that meeting given, Mr. Boyett?
A. The first meeting?

Q. Yes.
A. Just word of mouth.

Q. Just called people up, or see them on the street and said that you were going to have a meeting?

A. Yes. A few people called, and it just spread over the country. No written notices were sent out.

Q. Did someone from here call upon the State organization to send someone down and explain the organization of the Associated Farmers to the group?
A. I did that myself.

Q. You made the arrangements for Mr.—what is his name?
A. Strathman.

Q. For Mr. Strathman to come down?

A. Yes.

Q. Now, I presume the expenses of his coming were borne by the State Association, were they not?

A. I presume so. We did not pay them.

A. That is right.

Q. At least, you didn't pay them, is that it?

(Testimony of J. B. Boyett.)

Q. Now, we have introduced into the record Board's Exhibit [1414] No. 13-C, which is the Declaration of Policy for Agricultural Labor, endorsed by the Associated Farmers of Kings County, Inc.

Was that prepared under your direction, Mr. Boyett?

A. It was discussed at one of our Board meetings. We didn't prepare it.

Q. You didn't prepare the copy that appears on that paper? A. We adopted these declarations.

Q. I see.

Do you recall where it came from; I mean the substance of the document?

A. I picked up a copy of it in Fresno County, and liked it so well I presented it to our own Board and adopted it.

Q. Do you know whether or not that is the policy generally adopted by other units of the Associated Farmers?

A. I have learned since that it was. I didn't know at the time.

Q. Do you know whether or not the subject of this particular labor policy has ever come before the Board of Directors of the State Association?

A. Not while I was in attendance.

Q. Not while you were in attendance?

How often do you go up to meetings of the State Association, Mr. Boyett?

A. I believe they have four meetings a year.

(Testimony of J. B. Boyett.)

Q. Have you been in regular attendance since you were elected? [1415] A. I believe so.

Q. You attended all the meetings that have been held? A. Yes.

Q. Now, this Declaration of Policy you found in Fresno—what is the name of the County? Fresno County? A. Fresno County.

Q. Fresno County—did you make any changes in the policy as adopted by Fresno County from the one that you folks adopted over here?

A. Substituted “Kings.”

Q. Just “Kings” for “Fresno?”

A. That is right.

Q. Who printed these documents which are represented by Board’s Exhibit 13-C?

A. We had those printed at one of the local papers.

Q. A local printer? A. A local printer.

Q. That, of course, was paid for by the Associated Farmers’ organization here? A. Yes.

Q. And these, I take it, were distributed among your members and to other folks who might be interested in it? A. Yes.

Q. Is that right? A. Yes. [1416]

Q. 13-A, which is the document which has no title on it but states “You are eligible for membership in the Associated Farmers of Kings County,” I take it, that you adopted, then, some one you found in Kern County; is that correct?

A. That is correct.

(Testimony of J. B. Boyett.)

Q. And you had some of those printed and distributed? A. Yes. ..

Q. To persons who would be available for membership, is that correct? A. Yes.

Q. You paid for that from the funds of the local organization? A. Yes, we paid for that.

Mr. Walsh: Now, I am advised that it is twenty minutes of 5:00, if your Honor please. Might we adjourn at this time?

Trial Examiner Lindsay: We will adjourn until 9:30 in the morning.

(Whereupon, at 4:40 o'clock P. M., June 1, 1939, the hearing was adjourned to 9:30 o'clock A. M., Friday, June 2, 1939.) [1417]

AMERICAN LEGION HALL

Corcoran, California,

Friday, June 2, 1939.

9:30 O'clock A. M. [1418]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: The Respondents are ready, Mr. Examiner.

Mr. Walsh: The Board is ready.

Mr. Boyett, will you resume the stand, please?

J. B. BOYETT

the witness on the stand at the time of adjournment, resumed the stand and was further examined and testified as follows:

Direct Examination
(Continued)

Q. (By Mr. Walsh) Mr. Boyett, did the Associated Farmers of Kings County ever appoint an Executive Committee of the Board of Directors, as provided for by the by-laws? A. They did.

Q. Who composes that Executive Committee?

A. I would have to refer——

Q. (Interrupting): You may refer to any notes that you desire to.

Mr. Clark: Is that in——

The Witness (Interrupting): It is in the minutes.

Mr. Clark: The minutes of what meeting, please?

The Witness: September 12th, I believe.

Mr. Clark: September 12th?

The Witness: September 12th.

Mr. Clark: Let the record show, Mr. Examiner, that I am handing the minutes of September 12th, 1938, of the Associated [1420] Farmers of Kings County, Inc., that is, the minutes of the meeting of Directors of that organization under that date, to counsel for the Board, being the minutes referred to by the witness.

Mr. Walsh: Thank you, sir.

(The document referred to was passed to Mr. Walsh.)

(Testimony of J. B. Boyett.)

Mr. Clark: I suppose he wants to refresh his recollection from the sixth and seventh paragraphs of these minutes.

Q. (By Mr. Walsh) Will you refer to the minutes of the meeting of September 12th, and tell me who were the persons elected or appointed to the Executive Committee of the Board of Directors?

A. W. L. Haag, Hanford, California; E. J. Harp, Corcoran, California and Hugo Buckner, Hanford, California.

Q. Making an Executive Committee of three, is that correct?

A. That is correct.

Q. Now, I believe it is provided by the by-laws that the Executive Committee functions and manages the business of the organization during intervals between the meetings of the Board of Directors, is that correct?

A. That is correct.

Q. Now, as president of the organization, you are ex-officio Chairman of the Executive Committee, I believe?

A. That is correct.

Q. Now, has the Executive Committee had meetings from time to [1421] time?

A. I don't believe the Executive Committee has had but one meeting, and that was an informal meeting.

Q. That was an informal meeting? A. Yes.

Q. Can you fix the date of that meeting, Mr. Boyett?

A. Sometime during January.

Q. Of—— A. (Interrupting): 1939.

Q. (Continuing) ——of 1939?

(Testimony of J. B. Boyett.)

Can you fix the date first or the last half of January?

A. It was about the middle of the month. I will say in the last half of the month.

Q. In the last half of the month? A. Yes.

Q. Would that be in the third or fourth weeks of January? A. I would say in the third week.

Q. The third week?

A. To the best of my recollection.

Q. That would be somewhere between the 14th and the 21st, roughly, I take it? A. Yes.

Q. That meeting of the Executive Committee would have preceded the meeting of the Board of Directors on January 26th, would it not? [1422]

A. That is correct.

Mr. Clark: May I have the answer, please, Mr. Examiner?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: Will you speak up a little bit so we can hear you?

Trial Examiner Lindsay: Keep your voice up so you can be heard.

Q. (By Mr. Walsh) What was the subject of the meeting of the Executive Committee, Mr. Boyett?

A. It pertained only to a membership drive.

Q. I see. A. In the Month of February.

Q. That is, devising ways and means of increasing the membership of the organization, is that correct? A. That is correct.

(Testimony of J. B. Boyett.)

Q. Do you recall any other things that came before the Executive Committee?

A. That is the only thing that was talked about. [1423]

Q. Were there any minutes of the Executive Committee kept?

A. No minutes, I believe; not to my knowledge.

Q. I see.

Now, at the meeting of September 12, 1938, was there a motion made to increase the board of directors of the Associated Farmers of Kings County, Inc.?

A. That is correct; September 12th you refer to?

Q. Yes. A. That is correct.

Q. And was the board of directors increased at that time? A. It was, by six.

Q. By six, making a total of how many?

A. Fifteen.

Q. Now, who were the six new directors that were elected, or were they elected at that time? If they were not, would you tell us when they were elected and who they were.

A. I will refer to these minutes again.

Ed Orchard, Sunflower Valley, I believe.

Q. That is his address?

A. That is his address.

Q. Post office would be what?

A. I think Avenal.

Q. I beg your pardon? A. Avenal.

(Testimony of J. B. Boyett.)

Loyd Legget, Guernsey, L. D. Farmer, Lemoore; C. F. Evans, [1424] care of the Boston Land Company; Ralph Morgan, Hanford; John Dawson, Hanford.

Q. Now, have those six men been active in the deliberations of the board of directors since their election? A. Yes.

Mr. Clark: Objected to on the ground it is indefinite, may it please the Examiner, as to what is called for.

Mr. Walsh: It is indefinite and I will break it up a bit.

Q. These six men have attended the meetings of the directors that have been held since their election? A. They have.

Q. Are directors required to take an oath of office in your corporation? A. No.

Q. Are they required to subscribe to any instruments or sign the by-laws, or anything like that?

A. The original nine did subscribe to the by-laws. The six who were elected on September 12th have not.

Q. They have not. Now, how many meetings of the board of directors have you had since September 12, 1938?

A. I would say approximately six. [1425]

Q. Six meetings?

A. That is an approximation, without referring to the minutes.

Q. Now, at any of those—would you care to re-

(Testimony of J. B. Boyett.)

fer to the minutes and refresh your recollection?

You may, if you wish.

A. If it is important, I will.

Q. I believe I would like to have it.

Mr. Clark: Just go through the minutes, Mr. Boyett, and give us the number.

(The minutes referred to were passed to the witness.)

The Witness: Mr. Walsh, may I advise with my secretary sitting back there? It would facilitate matters quite a bit. He is the one that takes care of these matters.

Mr. Walsh: That is quite all right. If Mr. Botts would come forward and take care of this, it would be fine.

Mr. Clark: The question calls for the number of meetings since what date, Mr. Walsh?

Mr. Walsh: September 12th, 1938.

Mr. Clark: I object to that, may it please the Examiner, on the ground that the record shows the organization was not organized under the laws of this State until October 18th.

Mr. Walsh: I take it that the pre-organizational activities of the Association or corporation had been appropriately ratified by the Board of Directors.

Mr. Clark: There is no showing to that effect whatsoever in the record, and the Respondent in this proceeding is the [1426] Associated Farmers of Kings County, Inc.

Mr. Walsh: I assume, if the Examiner please,

(Testimony of J. B. Boyett.)

that this organization had competent counsel at the time they were organized, and that they did everything in accordance with the laws of the State; and if they are urging that as a defense, I would like to know it.

Mr. Clark: We are not urging that as a defense, Mr. Examiner. But first let me say there is no such requirement under the laws of the State as counsel states, with respect to the duties of a corporation once organized, and I am simply making the objection to limit the scope of this examination. I don't see the materiality of it.

Mr. Walsh: I submit, then, your Honor, that the law of California doesn't require ratification of the pre-organizational activity of the organizing committee, and that the objection is captious.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: You may go into it, and he may answer.

Mr. Botts: What was the question?

Mr. Walsh: How many meetings since September 12th?

Mr. Botts: I only find Director meetings of two.

Trial Examiner Lindsay: Just a moment, please. I don't want the secretary's answers going in the record at this time. I understand that was merely to transmit information to this [1427] witness, and the witness will testify to it, because this man has not been sworn.

Mr. Walsh: I am perfectly willing that the

(Testimony of J. B. Boyett.)

secretary announce the information, and that the witness adopt the information as received from the secretary and give that as his testimony, if the witness desires to do that.

Mr. Clark: Well, Mr. Lindsay, before there is any information given to the witness on the stand, may I check these minutes, because I have been through them as to the number of meetings.

Trial Examiner Lindsay: Yes.

Off the record a minute.

(Discussion outside the record.)

Trial Examiner Lindsay: On the record.

(At this point, Mr. Botts, Secretary of Associated Farmers of Kings County, Inc., was sworn by the Trial Examiner.)

Trial Examiner Lindsay: You may proceed. I am sorry to interrupt you.

Mr. Walsh: Thank you, sir; just as soon as Mr. Clark has checked the records.

Mr. Botts: It was five.

Mr. Clark: Will you put your question to this gentleman?

Mr. Walsh: The question is still posed to Mr. Boyett if Mr. Boyett desires to receive the information from the secretary and adopt the information from the secretary. [1428]

The Witness: There have been five regular meetings.

Q. (By Mr. Walsh) The minutes have been

(Testimony of J. B. Boyett.)

kept of all of those regular meetings, haven't they, Mr. Boyett? A. There were.

Q. Have there been any special meetings of the Board of Directors as provided for by the by-laws in which five days' notice is required?

A. No. [1429]

Q. Have there been any regular meetings of the board of directors at which minutes were not kept?

A. No.

Q. Now, have you examined the minutes since you were on the stand yesterday? Have you re-read the minutes? A. No.

Q. At our next recess I would like to have you re-read the minutes to determine in any of those minutes there is any reference to the J. G. Boswell Company except the minutes of the meeting of January 26th, and refresh your recollection, and then I will renew my question.

Now, passing over to January 26, 1939, we read into the record, in lieu of Board's Exhibit 12, the reference in the minutes of the meeting to the picketing at the J. G. Boswell Company.

Now, directing your attention to that situation, will you tell me the names of the directors who were present at that meeting?

Mr. Clark: May the witness refresh his recollection—

Mr. Walsh (Interrupting): Certainly.

Mr. Clark: (Continuing): —from the minutes.

Mr. Walsh: Certainly.

(Testimony of J. B. Boyett.)

You might refer to the minutes and refresh your recollection.

Mr. Clark: Let the record show, Mr. Examiner, that I am [1430] handing Mr. Boyett the minutes—

Trial Examiner Lindsay (Interrupting): Hand them to counsel.

Mr. Walsh: I have seen them.

Mr. Clark: I have already submitted them to him.

I am handing Mr. Boyett the minutes of the meeting of the Board of Directors of the Associated Farmers of Kings County on January 26, 1939, which minutes were submitted to Board's counsel yesterday and examined by him.

The Witness: Directors present were Howes, Haag, Harp, Evans, Dawson, Montgomery, Smith, Boyett, Legget, and Buckner, Orchard and Kimble.

Q. (By Mr. Walsh) Now, were there any persons present at that meeting who were not directors of the Associated Farmers of Kings County?

A. Yes.

Q. Who were they, please?

A. Mr. Dula of Tulare County; Mr. Pennybaker, Mr. Harkness—

Mr. Clark (Interrupting): Who is Mr. Pennybaker? Might I have him identified?

Q. (By Mr. Walsh) If you will identify both Mr. Dula and Mr. Pennybaker, if you will.

A. Mr. Dula is secretary of the Associated

(Testimony of J. B. Boyett.)

Farmers of Tulare County, Incorporated. Mr. Pennybaker is a director, I believe. [1431]

Q. Of the Tulare County Associated Farmers?

A. Tulare County. Mr. Harkness was the publicity agent.

Q. For——

A. (Interrupting): For Tulare County, who was employed just as a part time man.

Q. Tulare County Associated Farmers, I take it?

A. Mr. Pinkham—I don't know where he is from—Mr. Waite representing the Hanford Journal, and at that meeting there were new members; Mr. Burress, Mr. Broderick, and Mr. Elbert Montgomery.

Q. Now, they were new members of the board of directors?

A. No, not of the board of directors.

Q. New members——

A. (Interrupting): Of the Association.

Q. (Continuing) ——of the Kings County Association?

Now, I believe the minutes state that you reviewed the picketing at the Boswell plant. Will you tell us what you reported to the board of directors and these other gentlemen at that time?

Mr. Clark: Now, just a minute. I think that is a misstatement of the record, inadvertently, by Mr. Walsh. I think the minutes say that the picketing was reviewed. I don't think they said that Mr. Boyett reviewed them. Let us have the fact on it

(Testimony of J. B. Boyett.)

one way or the other and everything that was said in that connection and by whom. [1432]

Trial Examiner Lindsay: You may proceed.

Q. (By Mr. Walsh) Read that portion of the minutes so we will be accurate about it, Mr. Boyett. It is the first part of the paragraph, I believe.

A. "After a short review of the picketing of the Boswell plant in Corcoran, President Boyett called upon Mr. Dula and Mr. Pennybaker, of Tulare County, to explain the origin, function, and working arrangement of the Farmers Transportation Association."

Q. That is enough at this particular moment.

I am wrong in my quotation of the minutes.

I will ask you this question, Mr. Boyett: Who gave the review of the picketing situation?

A. I did, myself.

Q. Now, will you tell us what you reported to the board of directors?

A. As I remember it, I simply stated that pickets had come to the Boswell gin and gave them the situation as nearly as I could at that time.

Q. Do you remember about what you told them at that time, Mr. Boyett? A. Yes.

Q. I won't ask you to give it exactly, but as near as you can.

A. I stated that it was my understanding that pickets had [1433] come to the gin and that products of the gin going by truck had been declared "hot" and there was some question about getting the farmers' produce to market.

(Testimony of J. B. Boyett.)

Q. Did you advise them that the products of the Boswell plant were not moving out in the regular course of their business? A. I did.

Q. And—— A. (Interrupting) By truck.

Q. Yes, that is what I had reference to.

Now, what did Mr. Dula and Mr.—first, what did Mr. Dula say to the board of directors relative to the Farmers Transportation Association?

Mr. Clark: If anything.

Q. (By Mr. Walsh) If anything?

A. Mr. Pennybaker, director——

Q. (Interrupting) I asked you about Mr. Dula. The minutes refer to Mr. Dula first, I believe.

A. Mr. Dula simply came over to our meeting with Mr. Pennybaker.

Q. I see.

Mr. Pennybaker, was he the one that explained the Farmers Transportation Association?

A. Yes, he was.

Q. What did Mr. Pennybaker say? [1434]

A. Mr. Pennybaker stated that Tulare County had some experience with the Farmers Transportation Company in Los Angeles and that they had been very successful in getting farm produce through to the market, the final destination.

Q. Did he describe the system that they used in that instance? A. Yes.

Q. What was his description of it?

A. As I understand it, they have a director in

(Testimony of J. B. Boyett.)

Los Angeles who is in charge of the office who is deputized by the counties who subscribe to this service. In this instance, Tulare County would employ a man, deputized by the Sheriff of the County, and he would go to Los Angeles. In other words, he is stationed at Los Angeles. The man leaves Los Angeles with a load of produce and if he happens to be held up on the way, why he calls on the office in Los Angeles for help and they come up.

Q. Held up on the way in what manner, Mr. Boyett?

A. By anyone, a union man that stops them.

Q. That is, if a union man or——

A. (Interrupting): Anyone else.

Q. (Continuing) ——would stop the truck driver and demand to see whether or not he was a union driver and request him not to proceed with his load, then the Tulare man would come out to give such assistance as might be necessary, is that [1435] correct?

A. That is correct.

Q. Now, is that substantially the manner in which the Farmers Transportation Association was described to the board?

A. I might improvise on that a little bit by stating that these truck men, in leaving Tulare County, for instance, are certified by a certifying officer.

Q. I see.

A. He carries a card showing that he has been certified as a truck driver and representing this organization.

(Testimony of J. B. Boyett.)

Q. That is, he is a certified—a truck driver certified—by the Farmers Transportation Association, is that correct? A. That is correct, yes.

Q. Now, did the plan contemplate giving any assistance to persons leaving Tulare County with produce? A. Yes. [1436]

Q. And what was the nature of the assistance to be given them?

Mr. Clark: I understand as described to these gentlemen?

Q. (By Mr. Walsh) As described by Mr. Pennybaker.

A. Well, the purpose of these guards—I might term them—was to see the load through all the way from origin to destination regardless and irrespective of where trouble came.

Q. I see.

Now, what was the purpose of issuing these certifications to the truck drivers—

Mr. Clark (Interrupting): I will object—

Mr. Walsh (Continuing): —as explained by Mr. Pennybaker?

Mr. Clark: Very well, if he did make any such explanation.

The Witness: (Pause.)

Trial Examiner Lindsay: Read the question.

Is that in the form of an objection?

Mr. Clark: Yes, it is, may it please your Honor, on the ground that the question is not in proper form and assumes something not in evidence,

(Testimony of J. B. Boyett.)

namely, Mr. Pennybaker, or whatever his name is, made the statement which is included in the question.

Trial Examiner Lindsay: Now, will you read Mr. Clark's first statement? I didn't get it.

(The record referred to was read by the reporter, as set [1437] forth above.)

Trial Examiner Lindsay: He may answer.

The Witness: The purpose of the certification is simply a way of identification of the driver.

Q. (By Mr. Walsh) Now, did you—did he say, did Mr. Pennybaker say what these cards contained, or what was printed on them?

Mr. Clark: I object to that on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Yes. He gave us a copy of the card form they used.

Q. (By Mr. Walsh) Do you recall what it said?

A. It simply stated that this is to certify that John Doe has been certified as a regular truck man employed by so and so, and is authorized to transport farm produce from Tulare County to destination; some words to that effect.

Q. Some words to that effect.

Now, was that substantially all that Mr. Pennybaker said with reference to the farmers transportation association?

(Testimony of J. B. Boyett.)

A. He stated that the plan had been very successful since the inauguration of it; they had had no more trouble, the only trouble was the expense of hiring men, raising the money for that.

Q. Did he explain how they raised the money in Tulare County [1438] to support this particular—

A. (Interrupting) Popular contributions.

Q. Now, did the plan, as explained by Mr. Pennybaker, contemplate the employment of guards to escort the trucks?

A. Yes—that is, in effect.

Q. Did the plan as explained by this gentleman contemplate having those guards deputized as Deputy Sheriffs?

A. They were deputized.

Q. Oh, they were deputized.

And what duties did those guards perform?

A. Simply escort the truck through to its destination when called upon.

Q. Were they armed?

A. I do not know.

Q. Now, I believe—will you read the balance of that minute? I believe the Board went on record as favoring support of the plan, did they not?

A. “By which the farmers of Tulare and several Southern Counties succeeded in keeping the flow of farm produce to the Los Angeles markets open, despite hot cargo charges by radical elements, the meeting of the Directors unanimously adopted a resolution: Moved by Mr. Haag and seconded

(Testimony of J. B. Boyett.)

by Mr. Hart that the Kings County unit of the Associated Farmers cooperate with the Farmers Transportation Association.”

Q. Now, what if anything was done by the Kings County Asso- [1439] ciation to carry out the resolution of the Board of Directors?

Mr. Clark: I object to that as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: We appointed a certifying officer and nothing more was done.

Q. (By Mr. Walsh) Who was so appointed?

Mr. Clark: Same objection.

Trial Examiner Lindsay: Same ruling.

The Witness: Mr. Botts and myself. I should have said two officers.

Q. (By Mr. Walsh) You both were designated to perform the acts of certifying these truck drivers, is that correct? A. That is correct, yes.

Q. Did you ever send a representative to Los Angeles as was contemplated by the Tulare plan?

A. No, we did not.

Q. Did you ever become deputized?

A. No.

Q. By the Sheriff? A. No.

Q. Do you know whether or not Mr. Botts ever did? A. No.

Mr. Clark: Well, is the answer whether he did, or whether the man knows whether or not he did? [1440]

(Testimony of J. B. Boyett.)

Q. (By Mr. Walsh) If you know.

A. Not to my knowledge.

Q. You would know, I take it, if he did become deputized? A. Yes.

Q. Now, did you ever make any arrangement to have any guards deputized? A. No.

Q. Did you ever employ any guards?

A. No.

Q. Did you draw any money as certifying officer? A. No.

Q. Do you know whether or not Mr. Botts drew any? A. He did not.

Q. Did you ever issue any such certificates?

A. No.

Q. You did not.

Were you appointed as certifying officer at this same meeting of the Board of Directors on January 26th, 1939?

A. I would answer Yes, Mr. Walsh.

Q. You may examine the minutes to refresh your recollection.

A. (Examining document) May I clarify my answer—

Q. (Interrupting): Certainly.

A. (Continuing) —a while ago as to that informal meeting?

Q. Yes.

A. It was January 28th. [1441]

Q. The informal meeting of the Executive Committee was January the 28th? A. Yes.

(Testimony of J. B. Boyett.)

Q. I will accept the correction to your former answer.

A. I see nothing in the minutes regarding the appointment of the certifying officers.

Q. Do you have any recollection other than that as to when your appointment was made?

A. I was under the impression it was at this meeting.

Q. I see.

A. In fact, I am sure it was.

Q. Well, all right. If that is your recollection, it will be all right.

Now, was anything ever done by yourself or Mr. Botts, or any other member of the Board of Directors, to your knowledge, to carry out this plan of cooperation with the Farmers Transportation Association? A. Nothing was done. [1442]

Q. No money ever collected to support the plan?

A. No.

Q. Now, getting back to the informal meeting of the executive committee which I believe is reflected in that same minute, will you read what the minute has to say about the meeting of the executive committee?

A. "At the suggestion of President Boyett, the Executive Committee agreed to meet Saturday evening, January 28th, to iron out the details of the membership drive."

Q. And I believe that your other reference to that said that that was the only matter that came before the membership drive? A. Yes.

(Testimony of J. B. Boyett.)

Q. Or before the meeting was the membership drive. A. Yes.

Q. Again referring to that meeting on the 28th of the executive committee, where was that held, Mr. Boyett?

A. Peden's Cafe, Hanford.

Q. Peden's Cafe, Hanford? A. Yes.

Q. Will you tell us who was present at that meeting?

A. Mr. Botts, Mr. Nick Weis, myself, Mr. Buckner, Mr. Haag, Mr. Harp. That is all that I remember.

Q. Now, what was done with reference to the membership drive at that meeting? [1443]

A. We employed Mr. Nick Weis to work a month full time and Mr. Brice Sherman as part time.

Q. For the purpose of stimulating interest in the movement, I take it?

A. That is correct.

Q. And at that time did you have printed up the document which has been introduced as Board's Exhibit 13(a)?

A. (Examining document) I believe so.

Q. As part of your membership campaign?

A. That is correct.

Q. Was Mr. Brice Sherman present at that meeting?

A. I don't believe he was, no.

Q. And Mr. Weis was present, I presume, to

(Testimony of J. B. Boyett.)

discuss the—lay out the membership campaign and arrange for his being retained as membership director, I suppose? A. Yes.

Mr. Clark: May I see Board's Exhibit 13(a), please, Mr. Walsh?

Mr. Walsh: Yes.

(The document referred to was passed to Mr. Walsh.)

Q. (By Mr. Walsh) Now, who is Mr. Weis?

A. Mr. Weis is a local farmer, a resident of Corcoran here for many years.

Q. Not a member of the board of directors of the Association? [1444] A. No.

Q. Did he work the month?

A. Yes, the full month.

Q. Would you prefer I would ask my questions concerning the financial condition of the company of Mr. Botts? A. Yes, I would.

Q. All right.

How many farmers are there in this county, Mr. Boyett?

A. About 2300, according to the Farm Advisor.

Q. What is the office of Farm Advisor? Is that a county office?

A. That is a county office.

Q. Under the State Department of Agriculture?

A. That is correct.

Q. Now, Mr. Boyett, I will hand you a document which has been introduced as Board's Exhibit 13(b) and direct your attention to this paragraph appearing on the third page of the folder under the

(Testimony of J. B. Boyett.)

head of "County and District Organization," and would you read that to me, please?

A. (Examining document) "The Associated Farmers of each county is an independent association incorporated under its own name. Each county association selects its officers and directors, as well as its director for the state association and conducts its local activities, assisted by the state association." [1445]

Q. Now, what is the nature of the assistance rendered to the Kings County organization by the state organization?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Will you read the question?

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; and in no way directed toward the present situation which is under inquiry with the Board; also upon the ground it is beyond the Board's jurisdiction to conduct a fishing expedition such as this into the nature of a person or corporation which is not a party to the proceeding. [1446]

Trial Examiner Lindsay: He may answer.

The Witness: Being a young organization, we haven't really needed or called for any assistance, but as I understand it, our assistance we might receive from the State Association would be through

(Testimony of J. B. Boyett.)

the Field Secretary, which would not tax all of the units of the State.

Q. (By Mr. Walsh) And I presume generally keep you abreast of developments of agricultural problems in other Counties?

A. That is correct.

Q. And developments in labor relations and the technique of handling them?

A. Public relations.

Q. What assistance has the Associated Farmers of Kings County, Inc. received from the State organization?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Only through the visits of its Field Secretary.

Mr. Walsh: Yes.

Q. Now, I will ask you this question: At the time this complaint was served upon you, did you take the matter up with the State organization?

A. I did.

Mr. Clark: Objected to as incompetent, irrelevant and [1447] immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: I did.

Q. (By Mr. Walsh) Did you receive counsel and advice from the State organization?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

(Testimony of J. B. Boyett.)

The Witness: I talked to Mr. Strathman about the matter.

Q. (By Mr. Walsh) Mr. Strathman is the Field Secretary? A. Yes.

Q. Who next did you talk to about it?

A. I mailed the complaint to the State office.

Q. You made a trip, I believe, up to San Francisco about it, did you not?

A. Not at that time.

Q. Sometime between the time that it was served upon you, and the time of the hearing?

A. Just about two weeks—no, one week previous to the hearing.

Q. That was at the time you received the amended complaint?

Mr. Clark: May I have that question?

(The question referred to was read by the reporter, as set forth above.)

The Witness: Just about that time. [1448]

Q. (By Mr. Walsh) You had received the amended complaint about the time you went to San Francisco?

A. I had received that and mailed it to the State office.

Q. There, I take it, you counselled with Mr. Clark? A. Yes.

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: Well, his answer is already in.

(Testimony of J. B. Boyett.)

Mr. Clark: I move to strike it on the same ground.

Trial Examiner Lindsay: The answer may stand.

Q. (By Mr. Walsh) Now, did the State organization offer to you the services of Mr. Clark in the defense of this litigation?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial, and instruct Mr. Boyett not to answer the question.

Trial Examiner Lindsay: He may answer the question.

The Witness: What shall I do in a case of this kind?

Mr. Walsh: I would suggest we have a short recess.

Mr. Clark: Very well, Mr. Examiner.

Trial Examiner Lindsay: Was that serious?

Mr. Walsh: Yes. I will talk to Mr. Clark and find some way to get out of an impasse.

Trial Examiner Lindsay: All right. You may have a ten minute recess. [1449]

Mr. Walsh: All right.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Walsh: Mr. Examiner, I will withdraw the question that I asked Mr. Boyett at this time.

Q. Mr. Boyett, did Mr. Strathman come to Corcoran late in January of 1939?

(Testimony of J. B. Boyett.)

A. I believe it was early in February.

Q. Early in February? A. Yes.

Q. Did you by telephone, telegraph or by letter, or in any other way, communicate with Mr. Strathman prior to the first of February, 1939, say, let us limit it to the month of January, 1939?

Mr. Clark: I will object to that on the ground it is incompetent, irrelevant and immaterial, unless limited to some matter pertinent to this inquiry, Mr. Examiner. I presume he could communicate with Mr. Strathman about a social engagement, and it would have no bearing on this proceeding. [1450]

Mr. Walsh: I will accept the amendment of counsel. Let us limit it to anything relating to the Boswell disturbance.

Mr. Clark: And the time is when?

Q. (By Mr. Walsh) Limited to the month of January 1939. A. No.

Q. Now, did you communicate with Mr. Strathman during the month of December 1938, concerning the Boswell disturbance?

A. December 1938?

Q. December of 1938. A. No.

Q. Did you talk with him during the month of November 1938 or communicate with him in any way concerning the Boswell labor problem?

A. No.

Q. Now Mr. Strathman came down here, I believe, in the early part of February 1939, did he not? A. I believe that is correct.

(Testimony of J. B. Boyett.)

Q. Do you know how Mr. Strathman happened to come down?

A. I believe I talked to him on the telephone.

Q. Did you call him or did he call you?

A. I don't remember.

Q. At that time you made an arrangement, or an arrangement was arrived at that he would come down, is that correct? A. Yes.

Q. And in response to that telephone conversation he did [1451] come down here, is that correct? A. That is correct.

Q. And you discussed with him the Boswell situation, did you not?

A. Yes. We discussed that verbally.

Q. I beg pardon?

A. Verbally. We discussed that when he was here.

Q. Now, in this office, or in your office in the Associated Farmers of Kings County, do you maintain any files which contain the pictures of labor leaders or radicals or known Communists?

A. No.

Q. You maintain a file of their names?

A. No. I have a file of my own—there may be something there—I don't know. I would answer no.

Q. Well, did your personal file contain anything that would indicate the political leanings of any of the people that come into the county?

Mr. Clark: Objected to upon the ground it is incompetent, irrelevant and immaterial, unless involving some of the personalities involved in this proceeding, that is, some of the persons whom the

(Testimony of J. B. Boyett.)

claim is, on the part of the Board, have been discriminated against by any of the respondents. I take it that a record of someone else being a Communist is immaterial in this proceeding. [1452]

Trial Examiner Lindsay: He may answer.

Mr. Clark: May I have the question read back, now?

Trial Examiner Lindsay: Yes. Read the question.

(The record referred to was read by the reporter, as set forth above.)

The Witness: No.

Q. (By Mr. Walsh) Do you maintain a file of the persons who are alleged, from time to time, to be radicals or Communists who reside in the county?

Mr. Clark: I will object to that on the ground it is incompetent, irrelevant and immaterial. The question calls for some personal act on the part of this witness, not the Associated Farmers of Kings County, which is the only party on this phase of the matter to the complaint, and, also, it seems to me immaterial whether anyone maintains a file of Communists or radicals who might come in the county. I presume, may it please your Honor, that is not under investigation in this inquiry but rather the question is as to whether or not Boswell has discriminated against American working men, not Communists. [1453]

Trial Examiner Lindsay: He may answer.

(Testimony of J. B. Boyett.)

Mr. Clark: I will instruct the witness not to answer the question.

Trial Examiner Lindsay: Well, of course, the witness is under the jurisdiction of this Court.

Mr. Clark: May it please your Honor, I realize——

Trial Examiner Lindsay (Interrupting) Just a moment, Mr. Clark.

Mr. Clark: Very well.

Trial Examiner Lindsay: And when he takes the witness stand, he is supposed to answer the questions that are ordered to be answered by the party in charge. Now, he has been ordered to answer the question.

Mr. Clark: May I make a statement, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Mr. Clark: Before this or any other court, as your Honor knows, one has the right of protection under the law which is guaranteed by the Constitution and by the rules of evidence.

Now, I realize that your Honor has the power to instruct this witness, or to order him to answer the question, but as your Honor well knows, the ultimate decision in that regard, except for the Examiner's power to discard all this witness's testimony, lies with the United States District Court of this District, and when I make an instruction to this witness not to answer a question, I do so with the full understanding that if [1454] the Board intends to insist upon it, we will have the privilege of arguing that matter before the United States

(Testimony of J. B. Boyett.)

District Judge for this District.

Now, I simply want to stop, Mr. Examiner, this fishing expedition into matters which aren't germane to the proceeding, and which, obviously, can only satisfy the curiosity of these gentlemen representing the Board regarding the Associated Farmers of California.

Now, we have put up for some months with the LaFollette Committee, and I am not going to have this repeated in this hearing.

Trial Examiner Lindsay: Now, Mr. Clark, just a minute.

Mr. Clark: I will stand on the instruction.

Trial Examiner Lindsay: Well, my order is that he answer the question.

Mr. Walsh: I desire the Examiner to instruct the witness as to his rights under the National Labor Relations Act to claim a privilege from incriminating himself and, after having been instructed, I desire to renew my question.

Trial Examiner Lindsay: Yes. Of course the witness has a right, too, if he so declares himself, to refuse to answer a question upon the ground it might incriminate himself in some way and, of course, the further proposition is, if he does not answer the question, then I have a right to disregard all of his testimony. [1455]

Mr. Walsh: The instruction I desire the Examiner to give was to read to the witness the provisions of the Statute which says that after having first claimed his privilege against self-incrimination, he then may be required to answer the ques-

(Testimony of J. B. Boyett.)

tion. I don't desire to see this witness become in contempt of this or any other court, and I want him to be apprised of his rights, as well as of his obligations.

Mr. Clark: I want it thoroughly understood that the basis of my objection has nothing to do with the right of a witness to claim privilege against self-incrimination. It rests solely upon the proposition, Mr. Examiner, that that question, or the answer it calls for, is incompetent, irrelevant and immaterial, and is not probative of any issue in this case, and apparently calls for an act on the part of Mr. Boyett, as an individual, namely, in collecting a file of Communists, when Mr. Boyett isn't even named as a party to this proceeding.

May I have that question read back, your Honor?

Trial Examiner Lindsay: Yes.

Mr. Clark: Just once more.

My objection may be anticipating a question.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Off the record.

(Discussion outside the record.) [1456]

Mr. Clark: I think I will withdraw my instruction. May the objection stand in the record, and I withdraw the instruction.

I will make the objection it is incompetent, irrelevant and immaterial, and not probative of any issue in this case, but I won't instruct the witness on it. I will withdraw that.

(Testimony of J. B. Boyett.)

Mr. Walsh: That leaves us with only an objection pending.

Mr. Clark: That is right.

Mr. Walsh: I believe your Honor has ruled upon that objection, have you not?

Trial Examiner Lindsay: Yes. He may answer.

The Witness: The answer is, I do not.

Q. (By Mr. Walsh) Does the Associated Farmers of Kings County, Inc. maintain a file of those persons who are alleged to be radicals and Communists who reside in Kings County?

A. They do not.

Q. All right.

Now, I believe you stated, in answer to one of my other questions, that you maintain a file which might have some information of that kind in it.

Mr. Clark: Now, just a minute. I will object to that statement, may it please your Honor, as misstating the evidence thus far.

Mr. Walsh: If I have, the witness will correct me.

Mr. Clark: I am just making an objection that has been [1457] urged against me constantly throughout this case, not by you but by your assistant.

Trial Examiner Lindsay: May I have the question, please?

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh) Am I incorrect? May I ask the witness if I am incorrect in that statement?

(Testimony of J. B. Boyett.)

Trial Examiner Lindsay: I think he did so state, as I recall his testimony.

Mr. Clark: That is not my understanding.

The Witness: I think I can clarify my answer.

Q. (By Mr. Walsh) Let us have what the facts are?

A. I did start such a file. I didn't get anywhere with it. I looked for the file before this hearing, but it is gone. It is not in my possession. I had collected no such material.

Q. But you don't have that in your possession at this time? A. No. [1458]

Q. Did you ever use any of that material in connection with your work as president of the Associated Farmers of Kings County? A. No.

Q. Now, I notice among the articles of incorporation which have been admitted into evidence here as Board's Exhibit 9, that among part of the purposes of your Association is to fight against the infiltration of subversive doctrines in the educational system and into government and to combat dictatorship of individuals or groups.

May I ask you, Mr. Boyett, what is your thought regarding the dictatorship of individuals or groups? What do you believe that to be?

Mr. Clark: I object to that upon the ground it is incompetent, irrelevant and immaterial what Mr. Boyett thinks about that. There is absolutely no evidence in this record, Mr. Examiner—and this a part of the objection—in any way linking Mr. Boyett with any of the events which are under investigation here. What his opinion is as to the language read to him is absolutely immaterial.

(Testimony of J. B. Boyett.)

Trial Examiner Lindsay: Now, may I have the question?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I will sustain the objection.

Q. (By Mr. Walsh) Mr. Boyett, as president of the Asso- [1459] ciated Farmers of Kings County, Inc., and as director of the Associated Farmers of California, Incorporated, do you have any idea as to what dictatorship by individuals or groups is?

Mr. Clark: Same objection, Mr. Examiner, namely, that it is incompetent, irrelevant and immaterial what ideas Mr. Boyett has in either of the capacities included in the question concerning the language stated to him, and upon the further ground that the question is complex in that it involves an organization which is not named as a party to this proceeding, namely, the Associated Farmers of California, Incorporated, and upon the further ground that it is vague and indefinite, namely, what ideas have you about this and that.

Mr. Walsh: I take it that I have a right to explore the philosophy of this gentleman in his official capacity.

Mr. Clark: May I point out to the Examiner there is no connection shown between this gentleman and any of the events which are under investigation in this proceeding.

Trial Examiner Lindsay: He may answer that question.

(Testimony of J. B. Boyett.)

Mr. Clark: May I have it re-read?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I understand that calls for a yes or no [1460] answer.

Trial Examiner Lindsay: That is right.

The Witness: May I ask what the advice of counsel is on that question?

Mr. Clark: I just made my objection.

Trial Examiner Lindsay: Do you understand the question?

Mr. Clark: I am not giving you any instructions.

Trial Examiner Lindsay: Answer the question.

Mr. Clark: May I ask that it be re-read to the witness again, Mr. Examiner?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: That question may be answered yes or no.

The Witness: Yes.

Q. (By Mr. Walsh) Will you explain that, please?

Mr. Clark: I will make the same objection, Mr. Examiner, which I made to the preceding question, namely, it is incompetent, irrelevant and immaterial what idea Mr. Boyett has with respect to the language put to him; that the question is compound and complex in that it involves such ideas

(Testimony of J. B. Boyett.)

in the capacity as a director of the Associated Farmers of California, which is not a party to this proceeding and further that it is indefinite. In other words, the question opens the gate to the world, it seems to me, Mr. Examiner, [1461] what ideas have you about this and that. It is improper direct examination. This is the Board's witness and I assume that the Board is bound by his testimony.

Trial Examiner Lindsay: He may answer.

The Witness: May I ask the advice of counsel on that question?

Mr. Clark: You can answer it for all of me, if you understand the question.

Trial Examiner Lindsay: Let us proceed in an orderly way. Your counsel is down there taking care of you on the witness stand. He does not interpose an instruction. Now you may answer the question.

Read the question again.

(The record referred to was read by the reporter, as set forth above.)

The Witness: My ideas on that personally are very definite.

Q. (By Mr. Walsh) Will you give them?

A. I am strictly opposed to Communism and stand for everything that is American; I stand for American institutions and ideals and that is the reason, if I might answer this way, that I am in this Associated Farmers' work. We have never been accused of being an unpatriotic association. We are strictly and purely an American outfit and

(Testimony of J. B. Boyett.)

oppose any subversive elements from whatever source, whether it be a political racket, a labor racket, or what-not. Our purpose is [1462] lawful and our ideals are high.

Q. (By Mr. Walsh) Well, now, do you consider labor unions are dictatorial?

A. Yes, as presently constituted.

Q. Is that the official position of the Associated Farmers of Kings County, Inc.?

A. No.

Q. Then you yourself now are expressing only your personal views, is that correct?

A. That is correct. I believe—if I may answer, your Honor, a man has a right to join a labor organization. I feel that he should not be coerced into joining an organization. We do not believe in the closed shop or coercion of any kind. If a man wants to join a labor organization, we feel it is his own privilege and he has a perfect right under the law to do so, but we, as farmers, do not like to be told that in order to employ a man he has got to first join a labor union and on that principle we are going to stand.

Q. Now what do you do or what does the Associated Farmers—

Mr. Clark (Interrupting): May I have that last question read back to which this is the answer, Mr. Examiner? I have an idea there is a part of it unanswered. May I have the last question read back before Mr. Walsh puts another question?

Trial Examiner Lindsay: Yes.

(Testimony of J. B. Boyett.)

(The record referred to was read by the reporter, as set forth above.) [1463]

Mr. Clark: Now, may I have the answer?

(The answer referred to was read by the reporter, as set forth above.)

Mr. Clark: I see.

I thought he hadn't answered your question as to whether or not that was his personal opinion or not, but he did at the head of the answer.

Q. (By Mr. Walsh) Now, another one of the purposes for which this organization is incorporated is to foster and encourage respect for and to maintain law and order.

Mr. Clark: May I have it indicated, Mr. Examiner, as to whether this organization——

Mr. Walsh (Interrupting): It refers to the Associated Farmers of Kings County.

Mr. Clark: Very well.

Q. (By Mr. Walsh) Now, what does the Associated Farmers of Kings County do to maintain law and order?

A. Our activity consists solely in cooperating with the law enforcement officers.

Q. In what way do you do that, Mr. Boyett?

A. Public relations and labor relations, educational relations you might say.

Q. That is, education in the field of public relations and in the field of labor relations, is that what I understand you to mean? [1464]

A. Yes.

Q. Now, what do you do in the way of education

(Testimony of J. B. Boyett.)

in the field of labor relations that would tend to maintain law and order?

A. I might answer that question, your Honor, a little lengthily.

Q. Go ahead.

A. In other words, I feel if a man has a camp on his ranch and a group of men there, those men are here due no doubt to unfortunate circumstances and they don't have access to the papers and the public press; and about the only man he contacts is a labor organizer.

If you will pardon a personal reference, and if I may so testify, I might state that in my camp last year, last fall, every Monday morning the C. I. O. organizer pitched a bundle of trashy literature over into my camp asking those boys to strike; and immediately after doing so they could get all kinds of State assistance, Federal assistance, by simply for the asking.

I talked to them and told them that it was subversive. They were satisfied with the work, as were other camps in the community. There was no dissatisfaction. We are paying all that we could. The ratio received was the highest received for our products. There was no dissatisfaction at all from our men.

I feel that the Associated Farmers can do a great deal [1465] of good in combatting that type of subversive activity, what I call Communistic activity. It is tearing down, not building up.

Q. How do you go about it, Mr. Boyett, to follow out that program?

(Testimony of J. B. Boyett.)

A. Talking to the men, advising them in the ways of good government, good citizenship.

Q. What do you tell them generally about this propaganda that they are receiving?

A. I personally—not the Associated Farmers—

Q. Yes.

A. I never yet had an occasion to, from the standpoint of the Associated Farmers, but if you would like to have my personal viewpoint, I can give you that.

Q. Yes, I would like to have it.

A. I tell my men it is subversive, it is degrading, it is un-American. I don't feel that the taxpayers of the State of California should support a man to loaf whenever there is work available. I think that is true Americanism.

Q. You counsel them against striking, I take it?

A. Yes.

Q. You counsel them against joining these organizations that you believe to be subversive?

A. Yes, subversive organizations; yes, sir. I often told the men that have asked me that they have every right and [1466] privilege of joining a labor organization, but they are not required to.

Q. And you believe that some labor organizations, as they are now constituted, are engaged in subversive activities, is that correct?

A. I do.

Q. Now, does the Associated Farmers maintain a strategy committee for the purpose of contacting local law enforcing agencies in case of disputes arising between employees and employers?

(Testimony of J. B. Boyett.)

A. No.

Mr. Clark: Which organization?

Mr. Walsh: Referring to Kings County throughout; unless I so state, it will be the Kings County.

The Witness: My answer is no.

Q. (By Mr. Walsh) Did you during the Boswell disturbance set up any strategy committee to keep contact with the law enforcing agencies of the county in case trouble broke out? A. No.

Q. Now, Mr. Boyett, directing your attention to the other half of your business, the insurance business, do you sell any insurance to the Boswell Company? A. No. [1467]

Q. You don't cover them in any way through any of your companies?

A. No, that is true.

Q. Do you sell any of your farm produce to the Boswell Company?

A. Not in recent years. I have in years gone by, but not recently.

Q. You are dealing now with the San Joaquin Cotton Company as far as your cotton is concerned, are you not? A. Yes.

Q. And from time to time when you require financing, do you sometimes finance through the San Joaquin Cotton Company, do you not?

A. I have in the past.

Mr. Clark: May I have some indication, Mr. Examiner, so we won't lose it at this time, of the number of years the witness refers to since he has dealt with Boswell's?

(Testimony of J. B. Boyett.)

Trial Examiner Lindsay: You may ask him the question.

Mr. Walsh: I will ask him.

Mr. Clark: I wish you would.

Q. (By Mr. Walsh) How long has it been since you dealt with the Boswell Company, Mr. Boyett?

A. I have never dealt with the Boswell Company directly. My only dealings with them is through partnership of which I have no control. [1468]

Q. You are in a partnership farming deal, I take it, at one time or another, which partnership dealt with the Boswell Company? A. Yes.

Q. How long ago was that; do you remember?

A. That is in operation now.

Q. That is in operation now? A. Yes.

Q. That partnership is composed of more than two people, is it? A. Three people.

Q. Is that operated under a fictitious name?

A. It is a corporation.

Q. What is the name of the corporation?

A. Lone Oak Farms, Incorporated.

Q. And that corporation in which you are a stockholder has some dealings with Boswell's, is that correct? A. Yes.

Q. Is that a large or a small operation?

A. 1700 acres.

Q. In this country that would be small?

A. That would be small here.

Q. And what are the nature of the dealings that the Lone Oak Farms corporation has with the Boswell Company?

(Testimony of J. B. Boyett.)

A. Farmers in the true sense of the word, like all others. [1469] We gin cotton at the Boswell gin. I don't know if we have sold them any cotton in the last year or three years. In fact, I pay very little attention to it.

Q. Does that corporation from time to time borrow money of some of the affiliated companies of the J. G. Boswell Company?

A. I believe they have in the past.

Q. Do you know whether or not there are any outstanding loans from the Boswell Company to that corporation at this time? A. I do not.

Q. Did the Associated Farmers of Kings County receive any pictures of the pickets of the Boswell Company's plant? A. No.

Q. Directing your attention to the meeting of the Board of Directors on the 26th of January, 1939, did I understand that a newspaper man was present; a publicity man, I believe you said there was present? A. Yes.

Q. Now, was he employed by a newspaper at that time, or was he just a free lance publicity man?

A. I believe he was employed by the Hanford Journal.

Q. Would you give me his name?

A. Mr. Waite.

Q. W-a-i-t-e? A. W-a-i-t-e. [1470]

Q. Now, was he engaged by the Associated Farmers of Kings County to handle publicity?

A. No.

Q. He was just there as a newspaper man for the purpose of obtaining information concerning

(Testimony of J. B. Boyett.)

the meeting, is that correct?

A. That is correct.

Q. Were there any other newspaper men present at that meeting? A. No.

Q. Did you ever have any contact with Mr. Waite after the 26th of January, 1939?

A. No.

Q. Now, directing your attention to January 30th, 1939, in the evening of that day there was a meeting held on Mr. Sawyer's ranch, I believe, and a barbecue was held. Were you present at that meeting? A. That was a night meeting?

Q. Yes.

A. Yes, I attended that meeting.

Mr. Clark: The date is what?

Mr. Walsh: January 30th.

The Witness: I am not sure of the date. That meeting that night was the only one that was had there, I believe.

Q. (By Mr. Walsh) Did the arrangements for the barbecue take place through your office?

A. No. [1471]

Q. Were the expenses for it paid by the Associated Farmers? A. No.

Q. How many persons were at that meeting?

A. I judge about seven or eight hundred.

Q. Was that meeting in furtherance of the organizational drive you were starting at that time?

A. No, we had nothing to do with that meeting whatever.

Mr. Clark: By "we",—

(Testimony of J. B. Boyett.)

The Witness: (Interrupting) The Associated Farmers.

Q. (By Mr. Walsh) I take it you refer to the Associated Farmers?

A. In fact, I didn't know anything about the meeting until 5:30 that afternoon. I don't know why, but I happened to miss it, that is all.

Q. You did attend the meeting, is that correct?

A. Yes, I attended the meeting.

Q. Well, was there any meeting of the Associated Farmers on January 30th, 1939?

A. No.

Q. Was there any meeting of the Board of Directors of the Associated Farmers on January 30th, 1939? A. No.

Q. Was there any meeting of the Executive Committee of the Board of Directors?

A. No. [1472]

Mr. Walsh: May I have a moment?

Trial Examiner Lindsay: Yes.

Mr. Clark: Mr. Examiner, may I ask for a five minute recess at this time?

Trial Examiner Lindsay: Yes. We will have a five minute recess.

(At this point a short recess was taken, after which proceedings were resumed, as follows:)

Trial Examiner Lindsay: The hearing is called to order.

Q. (By Mr. Walsh) Mr. Boyett, has there ever been reported to you a meeting of the Board of Directors at which you were not present?

Mr. Clark: May I have that question read?

(Testimony of J. B. Boyett.)

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: No.

Mr. Walsh: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Boyett—may I have those Exhibits, Mr. Walsh? And particularly I want the membership list that we had yesterday. I think it is right here (indicating).

(The document referred to was passed to Mr. Clark.)

Q. (By Mr. Clark) Mr. Boyett, I show you the membership list which has been marked Board's Exhibit 11, and which I [1473] produced yesterday on behalf of the Associated Farmers of Kings County.

I will ask you whether or not I am correct in stating that this list shows all of the members as of March 1st, 1939? A. That is correct.

Q. Are there persons whose names are on that list who were not members of the Associated Farmers of Kings County, Inc. nor had any connection with that organization, on January 30th, 1939?

A. Yes, there are many on this list that were not members at that time.

Q. All right.

Can you give us the approximate membership, that is, the number of members of the Associated

(Testimony of J. B. Boyett.)

Farmers of Kings County, on January 30th of this year?

A. About one hundred twenty-nine.

Q. I see.

Do you know what the approximate number of names on the list which has been marked Board's Exhibit 11 is?

A. Over three hundred, I believe. [1474]

Q. I see.

In that connection—in connection with your answer respecting the number of members on January 30, 1939, Mr. Walsh has just directed my attention to Board's Exhibit 14(a) and I will direct your attention, Mr. Boyett, to that exhibit, and particularly the number which is opposite the words "Number of members to date" and I will ask you whether or not that refreshes your recollection as to the approximate number of members on January 30, 1939?

A. (Examining document): That must be the number there.

Q. And what is it about?

A. 140. I counted them one time. I got 129. I don't know what the date was. That is 140. That is an accurate count.

Mr. Walsh: May I observe at this time in order to help the witness refresh his recollection that this exhibit is dated November 22, 1938?

Mr. Clark: And we are asking you about January 30th.

The Witness: My answer should be 140 instead of 129.

(Testimony of J. B. Boyett.)

Q. (By Mr. Clark): The thing that Mr. Walsh is directing your attention to, Mr. Boyett, is that on Board's Exhibit 14(a), to which your attention has just been directed, appears the statement that the number of members to date of the Association is 140.

Now, that being November 22nd, 1938—now, having [1475] shown you that, can you give us the approximate number as nearly as you recollect of the members of this organization on January 30th, 1939, just roughly.

A. There wasn't very many more than that.

Q. Then what would you say?

A. Oh, probably 10 more.

Q. I see.

Well, is your answer that there were about 150 members?

A. Yes, I will make that my answer.

Q. On January 30th?

A. On January 30th.

Q. You said there were about seven or eight hundred farmers at this meeting on the Salyer ranch on January 30th?

A. That is correct.

Q. And were those actually farmers, Mr. Boyett?

A. Most of them.

Q. People there?

A. Most of them were.

Q. Did either you or anyone on behalf of the Associated Farmers of Kings County have anything whatsoever to do in any way, manner, shape or form with the calling of that meeting?

A. None whatever.

(Testimony of J. B. Boyett.)

Q. Did you or anyone on behalf of the Associated Farmers of Kings County, Inc., in any way, manner, shape or form bear any [1476] of the expense of that meeting?

A. None whatever.

Q. And I think you told us you found out about it when?

A. About 5:30 the same afternoon.

Q. All right.

A. In fact, I didn't know the tent was up there, erected. I happened to be going to the ranch and observed it and asked them what the excitement was.

Q. I see. You saw a tent erected there, is that right?

A. That is correct.

Q. Now, I want to direct your attention to the testimony which you gave concerning the attendance of the meeting of January 26, 1939. of the directors of the Associated Farmers of Kings County at Peden's Cafe in Hanford, of a representative of the Hanford newspaper.

Do you remember that testimony?

A. Yes.

Q. Will you please tell us whether or not, Mr. Boyett, at any meetings before or after the January 26th directors' meeting there have been newspaper representatives in attendance?

A. Yes, there have been.

Q. Will you please state whether or not that is a customary procedure so far as these directors' meetings are concerned? [1477]

A. That is correct. We have always tried to no-

(Testimony of J. B. Boyett.)

tify the Hanford Journal, the local paper, and the Fresno Bee.

Q. All right.

Is that so that the local newspapers can pick up at those meetings anything of interest which they may want to publish? A. That is correct.

Mr. Clark: Now, may I have the exhibit consisting of the financial statement that I submitted in response to the subpoena?

(The document referred to was passed to Mr. Clark.)

Mr. Clark: Thank you, Mr. Walsh.

Q. Now, I want to refer your attention, Mr. Boyett, or rather direct your attention to Boswell's—rather to Board's Exhibit 14(a) again, and particularly to the statement on that exhibit to the effect that a contribution of \$235.55 by J. G. Boswell Company had been mailed direct to the San Francisco headquarters of the Associated Farmers of California.

Do you see that entry? A. Yes.

Q. And that contribution was credited to the assessment—withdraw that.

Am I correct in stating that the contribution there indicated of \$235.55 was credited by the state organization [1478] to the assessment against Kings County? A. It was.

Q. All right.

Now the thing that I want you to tell us about, Mr. Boyett, is this: At any time prior to the payment or the making of that contribution by the J.

(Testimony of J. B. Boyett.)

G. Boswell Company did you in any manner or did anyone to your knowledge on behalf of the Associated Farmers of Kings County in any manner solicit it from the Boswell Company?

A. No.

Q. Will you please——

A. (Interrupting): In fact——

Q. (Continuing): ——let us have your answer.

A. My answer is no. I didn't know at that time that they were making contributions to the head office and I believe it was Mr. Strathman told me about this contribution after it was made.

Q. And by "Mr. Strathman" do you refer to the field secretary of the Associated Farmers of California? A. That is true.

Q. And am I correct in stating that the first you ever heard of a contribution by the Boswell Company was when Strathman told you about this one which appears on the exhibit to which I directed your attention?

A. That is correct. [1479]

Q. You had no conversation about that matter with any representative of the Boswell Company prior to that time, is that true?

A. None whatever; or since, either.

Q. Or since, either.

Now may I have, please, Mr. Walsh, a copy of the subpoena served upon Mr. Boyett which Mr. McTernan showed me this morning, because I left mine at the hotel in Hanford?

Mr. Walsh: Yes.

Mr. Clark: I want particularly the ninth call.

(Testimony of J. B. Boyett.)

(The document referred to was passed to Mr. Clark.)

Mr. Clark: All I am interested in is the specification for the material which was attached to the subpoena.

Q. Now I will read you, Mr. Boyett, paragraph 9 of a document handed me by the Board's counsel and which we will assume, and I think these gentlemen will so stipulate—is paragraph 9 of the subpoena served upon you in connection with this matter.

Mr. Walsh: We so stipulate.

Mr. Clark: And upon the Associated Farmers of Kings County, to-wit:

“9. Correspondence from date of organization of the Associated Farmers of Kings County, Inc., to the date hereof, with J. G. Boswell Company relating to financial contributions, labor policy, labor relations, labor disputes or labor [1480] disturbances.”

Have you that language in mind? A. I do.

Q. Will you please state whether there ever was any such correspondence?

A. None whatever and no verbal conversations relative to any of these matters. [1481]

Q. Very well.

That is our return to that call on the subpoena.

Mr. Walsh: I will accept it.

Mr. Clark: That is all.

Mr. Walsh: May I have that Exhibit again, please, the financial Exhibit?

(Testimony of J. B. Boyett.)

Mr. Clark: Yes, indeed.

(The document referred to was passed to Mr. Walsh.)

Redirect Examination

Q. (By Mr. Walsh) Mr. Boyett, there has been introduced in evidence here as Board's Exhibit 14-C a copy of a letter from the Boswell Company to Mr. W. B. Camp, treasurer of the Associated Farmers of California, initialed by Mr. Robinson, I presume.

How did that come into your possession?

Mr. Clark: I will state for the record that that letter has never been in Mr. Boyett's possession. I procured it from the Boswell file and attached it to the only thing that I had as a financial statement to explain the discrepancy in the figures shown as Boswell's contribution between that which is given in the stipulation between you and Mr. Wingrove.

Mr. Walsh: Thank you very much.

Q. Has the Boswell Company made any other contributions to the Associated Farmers of Kings County since this September 30th, 1938 contribution to the State organization? [1482]

A. I believe they have, Mr. Walsh. I don't have the date of it here.

Mr. Clark: We can obtain whatever figures there are in that respect and submit them to you.

Mr. Walsh: All right.

Mr. Clark: I don't know exactly what they are.

Q. (By Mr. Walsh): Are you familiar, Mr.

(Testimony of J. B. Boyett.)

Boyett, with the system of assessments by the State organization against the Kings County organization? A. Yes.

Q. Will you describe that for us, please? I believe I forgot to ask you that.

A. We are assessed on the basis of our agricultural wealth, or, I might say, the amount of agricultural products sold.

Q. By members of the local association?

A. That is by the entire County.

Q. Oh, I see.

A. Taking the agricultural valuation of the products sold in a given year for all the Counties in the State, we are assessed on that basis.

Q. Then if the agricultural products of Kings County for the year of 1939 is "X" dollars, you would be assessed on that amount, is that correct?

A. That is correct.

Q. Now, that assessment must be borne by the Association [1483] whether or not all farmers in the County are in the Association, is that correct?

A. I believe that is correct.

Q. Now, that assessment is paid by the County organization to the State organization for the support of the State organization, is it not?

Mr. Clark: I object to that last upon the ground—well, if he knows, it is all right.

Q. (By Mr. Walsh): If he knows.

Mr. Clark: "In support of the State organization," I was going to object to that as a conclusion.

The Witness: Read the question again, please?

(Testimony of J. B. Boyett.)

Mr. Clark: I have no objection to it. I withdraw that.

May I have the question read?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

The Witness: It is.

Q. (By Mr. Walsh): Do I understand then, correctly, that the contribution made by the Boswell Company which is referred to in the letter of September 20th, 1938, which has been introduced as Board's Exhibit 14-C, the amount being \$235.55, applies to their production in Kings County that was credited by the State organization against the assessment to be levied against your organization? Is that correct? [1484]

A. That is correct.

Q. Now, has the assessment for the year of 1939 been fixed by the State organization?

A. It has.

Q. Has the amount been determined that you should pay? A. Yes.

Q. Would you tell us what that amount is, please?

A. I believe it is \$635.00; either \$635.00 or \$655.00.

Q. And has that been paid by your organization?

A. It has been paid up to date. That is on a pro-rata.

Q. Pro-rated, I take it?

(Testimony of J. B. Boyett.)

Mr. Clark: Quarterly installments, aren't they?

Q. (By Mr. Walsh): Quarterly installments?

A. That is correct.

Q. Now, have any of these payments been made by the Boswell Company?

A. No. I will qualify that answer. I believe that the Boswell payment has gone in, Mr. Walsh, but it is simply credited as a lump sum against our——

Q. (Interrupting): Just a matter of bookkeeping?
A. Just a matter of bookkeeping, yes.

Q. Rather than sending it through you to the State organization, it is sent direct, is that correct?

A. We have never received any payments through—from the ginning company through our office. [1485]

Q. Those all go direct to the State association?

A. That is right.

Q. And are credited against your assessment, is that true?

A. We have no knowledge of what they are, the payments made.

Mr. Clark: Mr. Walsh, I will get the exact figures in that connection and submit them to you; that is, all of this assessment and whatever payments or contributions Boswell has made since the one of \$235.00 that is in evidence.

Mr. Walsh: All right. Thank you, sir.

That is all.

Mr. Clark: Just one further question, if I may,

(Testimony of J. B. Boyett.)

Mr. Examiner.

Trial Examiner Lindsay: You may.

Recross Examination

Q. (By Mr. Clark): Mr. Boyett, am I correct in stating that all the cotton ginning companies throughout the State of California, or practically all of them, make contributions to the local units of the Associated Farmers, or to the State organization similar to those made by Boswell?

A. They do.

Q. And is that upon so much a bale of the cotton?

A. Yes, that is on the basis of the amount of bales ginned.

Q. I see.

And do you know whether or not there is any other cotton ginning company in this County which makes a similar contri- [1486] bution to the State organization for your account?

A. There is.

Q. And please state the name of that Company?

A. The San Joaquin Ginning Company.

Q. All right.

Now also, am I correct in stating with regard to other agricultural activities such as citrus and dairy products and so forth, that contributions are made by cooperatives and persons occupying such positions in the same manner as by these cotton gins?

A. They do.

Mr. Clark: All right. That is all.

(Testimony of J. B. Boyett.)

Trial Examiner Lindsay: Are you through with the witness?

Mr. Walsh: I believe that is all.

(Witness excused.)

Mr. Clark: May Mr. Boyett be excused to go about his business for a little while?

Trial Examiner Lindsay: As far as I am concerned.

Mr. Walsh: If there is anything further we will need him for, I will give you 12 or 24 hours' notice.

Mr. Clark: He will be available, Mr. Walsh, throughout the entire hearing.

Mr. Walsh: All right.

Mr. Botts, take the stand, please.

Trial Examiner Lindsay: You have already been sworn. [1487]

HAROLD E. BOTTS

a witness called by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh): Will you state your full name, please? A. Harold E. Botts.

Q. Where do you live, Mr. Botts?

A. Corcoran.

(Testimony of Harold E. Botts.)

Q. What is your business? A. Farming.

Q. You are the Secretary and Treasurer of the Associated Farmers of Kings County, Inc.?

A. Yes, sir.

Q. And I will hand you Board's Exhibits 14-A, 14-B and 14-C, which are the financial Exhibits, and ask you if those were prepared under your— prepared by you?

Mr. Clark: Just one moment. I think that question, Mr. Walsh, inadvertently includes that Boswell letter.

Mr. Walsh: I am sorry.

Q. 14-A and 14-B were prepared by you, were they?

A. 14-A refers to the adding machines—

Q. (Interrupting): Yes.

A. And the other—

Q. (Interrupting): 14-A refers to the financial report of [1488] November 22nd, 1938, and 14-B refers to the adding machine slip.

A. I did.

Q. Now, on the bottom of 14-A is a postscript which apparently was put on by a different typewriter than the balance of the financial report.

Did you put the reading matter on this particular letter following the letters "P.S.?"

A. I believe I did, although I don't recall using that second typewriter.

Q. You can see from the Exhibit that apparently two different typewriters have been used?

(Testimony of Harold E. Botts.)

A. Yes.

Q. Now, I notice that the last typewriting on the page, it states, "Original mailed to W. B. Camp."

Now, who is W. B. Camp?

A. His office, I believe, is Treasurer of the State organization.

Q. And he is located in Bakersfield, is he not?

A. Bakersfield.

Q. And those words "Original mailed to W. B. Camp," refer to what?

A. I presume it was the above statement.

Q. The financial report?

A. The financial report. [1489]

Q. Now, is there some requirement of the Associated Farmers of Kings County, Inc., which requires you to furnish a copy of the financial report to Mr. Camp?

A. Not to my knowledge. I believe that was just a request made at one time.

Q. Could this original—could this notation "Original mailed to W. B. Camp," relate to the original contributions of the San Joaquin Ginning Company and J. G. Boswell Ginning Company?

A. Let us see. (Examining document).

Q. Now, as I understand the situation, those were actually mailed to Mr. Camp. I want to get the facts straight.

A. I am not actually positive of this, but my recollection was that there was an original state-

(Testimony of Harold E. Botts.)

ment covering these two and here in the book I just added that those originals were mailed to Mr. Camp. I believe, if I can elaborate a little further—

Q. (Interrupting) Surely.

A. (Continuing) —that we received a communication from the head office that certain contributions had been received, and I took the original and mailed them on to Camp.

Q. Now, the notation “Number of members to date, 140” relates to the date of November 22nd, 1938, is that correct? A. That is correct.

Q. And your eventual membership roll, 500, is just wishful [1490] thinking, isn't it?

A. Yes, that is all.

Q. Now, referring to 14-B, which is the adding machine slip, you have the first item “Barbecues \$500.39.”

That is the expenses chargeable against barbecues since the beginning of the organization until—

A. (Interrupting) Yes.

Q. What date. When did you make that?

A. I imagine I made that date within the last two weeks. It was just a few days before the hearing. [1491]

Q. You got up this set of figures in response to the subpoena, is that correct? A. Yes.

Q. Would you fix about the day? Could you?

A. When did it start?

Q. The hearing start?

(Testimony of Harold E. Botts.)

Trial Examiner Lindsay: The 18th, I believe.

The Witness: I would say it would be between the 16th and the 18th.

Mr. Walsh: Now, Mr. Clark, can we add to this 14(b) by pencil notation, that it is the financial condition as of May 18th?

Mr. Clark: Yes, indeed. I can give you the exact date. If the date the hearing commenced was on Thursday, the 18th—let me ask a question or two, if I may.

Mr. Walsh: Surely.

Mr. Clark: In this connection.

Am I correct in stating, Mr. Botts, that you made up the figures which appear on the adding machine tape at my request?

The Witness: Yes.

Mr. Clark: And was that the day before the hearing commenced? Was it the first day you met me in Corcoran?

The Witness: I believe it was the first day. I don't remember whether it was the first day I met you or I made it [1492] up the following morning. I believe I made it up the following morning.

Mr. Clark: All right.

Then the date would either be, Mr. Examiner, Wednesday, May 17th, or the day the hearing started, being Thursday, May 18th. I will make that statement for the record.

The Witness: I believe I handed you that just before you went into the opening of the hearing.

(Testimony of Harold E. Botts.)

Mr. Clark: I see. I will stipulate with you, Mr. Walsh, that the figures appearing on the adding machine tape indicate, according to Mr. Botts, under the circumstances already testified to, the financial condition of the Associated Farmers of Kings County as of the morning of May 18th of this year.

Mr. Walsh: I will accept that stipulation.

And, for the purpose of convenience, we will just mark on the exhibit "May 18."

Mr. Clark: That is quite all right.

Mr. Walsh: Financial condition as of May 18, 1939.

Mr. Clark: That is quite all right.

(The exhibit referred to was so marked by Mr. Walsh.)

Q. (By Mr. Walsh) Now, referring to the first item of Board's Exhibit 14(b), which is the adding machine tape, "Barbecues, \$500.39," can you give us the dates upon which those barbecues were held? [1493]

A. The approximate date. I believe it was the 18th of October, if I am not correct—if I am correct, the 18th of October. It was right in that neighborhood.

Mr. Clark: Of what year?

The Witness: '38.

Q. (By Mr. Walsh) Referring to Board's Exhibit 14(a) which is a financial report as of November 22nd, 1938, there is an item here "Cost of barbecues, October 18, \$381.77."

(Testimony of Harold E. Botts.)

Now, was there another barbecue?

A. All of the bills were paid from that first, the cost of that was the construction of tables and benches and I believe there were some large kettles.

Q. The equipment that you needed for the holding of it, but which quipment you probably still have, is that correct? A. That is correct.

Q. You have had only one barbecue?

A. We had that one public barbecue.

Q. Have you had any other barbecues?

A. I think there was another one. I can't fix the date on it.

Q. Approximately when?

A. I could say some time in February, the early part of February.

Q. Where was it held? [1494]

A. It was held at the tent out on the Salyer ranch.

Q. Was that in the first week of February?

A. I don't know. That tent stayed up for about three weeks.

Q. Was it immediately following the meeting of the 30th of January?

A. No. I would say a week or ten days elapsed between that time.

Q. And the expenses for that barbecue were borne by the Associated Farmers of Kings County?

A. That was the Associated Farmers meeting, yes. The two of them are lumped together there.

Q. Now, this office, \$83.90, that is referred to as

(Testimony of Harold E. Botts.)

the second item of 14(b), is your miscellaneous office expense such as telephone calls?

A. Telephone.

Q. And paper? A. Yes.

Q. And supplies.

Now the cost of membership, \$370.80, I presume relates to the extra help that you hired to manage your drive, is that correct?

A. That is correct.

Q. So as of May 18th—no, prior to May 18th—you had received in either contributions or membership dues \$974.17 [1495] as reflected here by the deposits?

A. That is all membership dues.

Q. That is all membership dues.

The expenses of the organization up to May 18, 1939, have been \$935.17, is that correct?

A. Yes.

Q. Leaving a total, or leaving a balance of \$19.00 in the treasury as of the morning of May 18, 1939?

A. That is correct.

Q. Now, as of May 18, 1939, did you have outstanding any unpaid bills? A. A few.

Q. Would you estimate about what those would be?

Mr. Clark: I will object to that, may it please the Examiner, on the ground it is incompetent, irrelevant and immaterial unless there is some connection shown with some of the other respondents in this case. In other words, the question is too

(Testimony of Harold E. Botts.)

general in form and vague and indefinite, what unpaid obligations this organization had, if any, except with respect to the specific respondents in this matter. I have no objection to the question in that form.

Trial Examiner Lindsay: He may answer.

The Witness: What was the question again?

Mr. Walsh: Will you read it, Mr. Reporter?

(The record referred to was read by the reporter, as [1496] set forth above.)

The Witness: (Pause) Offhand I would say somewhere around \$75; something like that.

Q. (By Mr. Walsh) So as of May 18th you wouldn't have had quite enough money?

A. Didn't have quite enough money to pay all bills.

Mr. Clark: Insolvency.

Q. (By Mr. Walsh) Now, Mr. Botts, who made the arrangements for this barbecue that you told us about that was held on the Salyer ranch in the early part of February?

A. I don't know as I can name the guiding spirit of it at all. It was simply, as I recall it, the tent was out there and we thought it desirable to have another public hearing as at this time we were in a campaign for membership and that was the idea of it, so I presume that the executive committee were the ones that more or less sponsored it with that idea in mind.

Q. Do you know—did you have any meetings of

(Testimony of Harold E. Botts.)

the Executive Committee for the purpose of making those arrangements and committing the organization to that expense?

A. No, I don't believe we did because I believe that was all delegated at the previous meeting mentioned in Mr. Boyett's testimony.

Q. Do you know at what meeting it was determined to have that barbecue? [1497]

A. When we met in Peden's Cafe. What was the date of the previous Executive—some time the latter part of January.

Q. January 28th, I believe Mr. Boyett fixed as the date.

A. One Saturday night, I remember. In talking over the membership drive we decided to hold a public meeting at some place during the month of February and that tent was out there at Salyer's, and it was offered to us if we wanted to use it.

Q. Now, had the tent at Salyer's been put up at that time, do you know?

Mr. Clark: What time does the question refer to, Mr. Examiner?

Mr. Walsh: I am referring to January 28th.

Mr. Clark: Time of this Executive Committee meeting?

Mr. Walsh: At the time of this Executive Committee meeting.

The Witness: No, I am pretty sure it was not.

Q. (By Mr. Walsh) It was not up yet? Do you know when that tent was put up?

(Testimony of Harold E. Botts.)

A. I know when I first learned of it.

Q. When was that?

A. It was about 7:00 o'clock or 6:30 on the night that the first meeting was held there.

Q. That would be 6:00 o'clock on the night of January 30, 1939? [1498]

A. It was the same day that the little incident happened that was referred to.

Q. All right.

Now I will hand you a document which we have identified as Board's Exhibit No. 11, and which is a list of the membership, there being several pages to it, of members of the Associated Farmers of Kings County, Inc., and I ask you if you prepared this list from your membership records.

A. I think I did.

Q. All right.

Now, in examining the list on the left-hand side of the page immediately preceding the name of the member, are figures. For example, preceding the name of Jesse Anderson on the first page is the figure "2."

Is that his membership number?

A. The cards are numbered, the membership cards are numbered. That is the number of his card issued to him. [1499]

Q. Now, do the numbers run in rotation indicating that Jesse Anderson was the second member of the organization?

A. No.

Q. It does not?

(Testimony of Harold E. Botts.)

A. It is purely alphabetical, I believe, and arranged by communities.

Q. I see.

I notice—the first number in Corcoran was Mr. Boyett, I notice. He was the number 1 man?

A. I will explain that.

Q. And I just thought maybe that would indicate the order in which they came to the organization.

A. There was a state convention held in Ventura—the date I don't recall.

Mr. Clark: In the fall of 1938?

The Witness: Yes, I believe it was some time in December, if I am correct, and Mr. Boyett was made a delegate. And the morning before he left I made up the membership cards which have just come back from the printer and gave him card No. 1; and from there we started off alphabetically and by communities.

Mr. Walsh: I see.

Q. Now, in this membership list, say, on the first page, I notice here some of the symbols indicating a number. For instance, Jesse Anderson, the symbol precedes the figure "2" [1500] indicating the number. A. Yes.

Q. Now, then there are paragraphs here which have, for instance, Branch & Chambers, has one in parentheses. Does that have any different meaning?

A. Yes, there were two classes of cards issued; the regular membership bear with people primarily

(Testimony of Harold E. Botts.)

engaged in farming, and the associate members are those that are dependent on farming and interests allied with farming.

Q. When we look at the list and see the member's name preceded by figures within parentheses, that indicates they are associate members?

A. Yes.

Q. I see.

And those members whose names and numbers are preceded with the symbols indicating a number, those are the active members? A. Yes.

Trial Examiner Lindsay: Adjourned until 2:00 o'clock.

Just a moment, please.

Mr. Clark: Mr. Examiner, during Mr. Boyett's direct examination by Mr. Walsh, Mr. Boyett was requested to carefully read through the minutes of the meetings of the board of directors of the Associated Farmers of Kings County to familiarize himself with them during the first recess. [1501]

Now, I suppose further questions will be asked. Mr. Boyett has been excused and I think that probably has been overlooked, and I thought of it a moment ago, because I intended to have him do it over the noon hour.

Mr. Walsh: I did forget it, and if he will read them over and ascertain if there are any other references to the Boswell Company, and if you will tell me what his answer is, then I will determine whether or not we need to put him back.

(Testimony of Harold E. Botts.)

Mr. Clark: Suppose I have him do that as soon as I can get ahold of him and some time during the hearing you can get ahold of him and ask him the question.

Mr. Walsh: All right.

Trial Examiner Lindsay: Adjourned until 2:00 o'clock.

(Whereupon, at 12:00 o'clock noon, an adjournment was taken until 2:00 o'clock p. m., of the same date.) [1502]

After Recess

(Whereupon the hearing was resumed, pursuant to recess, at 2:00 o'clock P. M.)

Trial Examiner Lindsay: Hearing called to order.

Mr. Walsh: Mr. Botts, resume the stand.

HAROLD E. BOTTS

the witness on the stand at the time of recess, resumed the stand and further testified as follows:

Mr. Walsh: You may inquire, Mr. Clark.

Cross Examination

Q. (By Mr. Clark) Mr. Botts, there is just one question I would like to ask you.

Directing your attention to Board's Exhibit 11, which is a list, a membership list of Associated Farmers of Kings County, Inc. as of March 1, 1939, I would like to ask you whether or not you will be able from any record in your possession to indicate

(Testimony of Harold E. Botts.)

on this Exhibit those persons who were members of the Associated Farmers of Kings County on January 30 of this year?

Mr. Walsh: Counsel, for the convenience of the witness, I will stipulate that the witness may designate those who became members during the month of February. Probably that will be more convenient for him to do that than to say who were members before then, as the remaining persons would be members. [1503]

Mr. Clark: Very well.

Q. Would you be able, Mr. Botts, if I gave you a copy of this exhibit, which you could take away with you, to indicate on it those persons who became members of the Associated Farmers of Kings County, appearing on the list after January 30, 1939?

A. I believe I can do that.

Mr. Clark: All right.

Now, Mr. Examiner, I would like permission, then, to let this witness go upon the only reservation that I would like him to indicate on a copy, which I have, of this membership list, the persons who were not members on January 30th in this organization and then I will offer that in evidence.

Trial Examiner Lindsay: Is that agreeable?

Mr. Walsh: Satisfactory.

Trial Examiner Lindsay: How is he going to designate them, by a cross after each one?

Q. (By Mr. Clark) Is that the way you will do it?

(Testimony of Harold E. Botts.)

I suggest to you, Mr. Botts, that you simply put a check mark after those appearing on the list, which I will give you, who were not members or who became members after January 30, 1939, and I will recall you and have you testify.

Mr. Walsh: I wonder if we could supplement that by adding the date on which they became members?

Mr. Clark: Yes. [1504]

The Witness: I doubt if I could give you the exact date. It would probably be during the month of February. In some cases, I could give you the exact date and others I would have to guess at it.

Mr. Walsh: If you will supply us the dates when it is convenient, that will be all right.

Mr. Clark: Just one or two more questions, Mr. Lindsay.

Trial Examiner Lindsay: Before we get off this, may I ask the witness one question?

Mr. Clark: Surely.

Trial Examiner Lindsay: Do you fully understand what is expected of you to do with that list?

The Witness: My impression is to divide that list up according to my records; on one list those who were members before January 31st and the other list to include those who became members after that period.

Mr. Walsh: That is all right.

Trial Examiner Lindsay: That is all right.

Mr. Walsh: I am trying to make as little work

(Testimony of Harold E. Botts.)

as possible. I wanted you to indicate on the list which ones became members after January 30th.

Trial Examiner Lindsay: I suggest that you take that list and show this gentleman just what you expect so he will know just what to do. Now one of you gentlemen just take one name and give him an example. [1505]

Mr. Clark: I am trying to find a copy of it. I have it somewhere.

Q. Mr. Botts, I will show you the original list which has been admitted in evidence in this proceeding, being Board's Exhibit 11. I will direct your attention to the name Jesse Anderson which is the first one on the list. If you find from whatever records you have in your possession that Mr. Anderson first became a member of this organization after January 30, 1939, you see, I want you to place a cross or a check opposite his name.

Trial Examiner Lindsay: That is right, and following that is the date on which he became a member, if you have it, so it will appear like this when you get through: Here is a check and then "Became member February 3, 1939."

Do you see?

The Witness: Yes.

Trial Examiner Lindsay: That will save you the trouble of making separate copies. Is that clear?

The Witness: That is clear.

Q. (By Mr. Clark) And, Mr. Botts, after those persons who you find were members on or before

(Testimony of Harold E. Botts.)

January 30, 1939, nothing is to be placed opposite their names on the list.

Trial Examiner Lindsay: Let the record show that on Board's Exhibit 11, on the first name, Jesse Anderson, that I made a writing after that name and erased the writing so [1506] that it now appears on that exhibit as if something has been erased and it does not add to or take anything away from the exhibit itself.

Mr. Clark: That is satisfactory.

Q. Now, Mr. Botts, do I understand that the barbecue which was held in the forepart of February 1939 was first discussed at a meeting of the Executive Committee of the Associated Farmers of Kings County held at Peden's Cafe on or about January 28th?

A. That is my recollection, although no particular date was set upon. That was left to the discretion of two or three members of the board of directors. [1507]

Q. All right. That was just what I was going to ask you.

Was there any date set upon at that time, at the barbecue? A. No, there was not.

Q. Was any place designated at that time at the barbecue? A. No, there was not.

Q. What was the purpose for holding the barbecue as discussed at that Executive Committee meeting?

(Testimony of Harold E. Botts.)

A. The barbecue was to be a public barbecue at which all the farmers—citizens of the community, whether farmers or not, were invited to attend.

Q. And for what purpose, please?

A. To stimulate their interest in the membership was the primary purpose.

Q. Am I correct in stating that it was part of a membership drive which was about to be initiated by the organization? A. It was.

Q. Now, at the time this idea was discussed at the Executive Committee meeting you have told us about, did you know whether or not there had been a tent erected on the Salyer ranch?

A. There had been none there. I recollect there was none erected there. That was at the—the Directors' Executive Committee, was held, I believe, on the last Saturday of January. I am pretty sure it was Saturday night.

Q. My question is, so far as you knew then, was there a tent [1508] available on the Salyer ranch?

A. No, we didn't know anything about it.

Mr. Clark: That is all.

Redirect Examination

Q. (By Mr. Walsh) Mr. Botts, do you recall how many people attended this barbecue in February that was held as a result of this Executive Committee meeting?

A. I would just have to estimate; some place, I would say, between five and seven hundred.

(Testimony of Harold E. Botts.)

Q. Were there any representatives of the State organization there as speakers?

A. I think there was, yes.

Q. Can you name those persons?

A. I believe Holmes Bishop—or is it Bishop Holmes?

Mr. Clark: Holmes Bishop.

Q. (By Mr. Walsh) Do you know what position he occupies?

A. He was the president of the State organization.

Q. And do you know where Mr. Bishop lives?

A. I believe it is in Orange County.

Q. He is not a citizen of Kings County?

A. No.

Q. An outsider?

A. Orange County, California, down near Los Angeles. I don't know what his exact address is.

Q. He is an outsider, isn't he? [1509]

Mr. Clark: I object. It is calling for a conclusion of the witness. It has been asked and answered. There is no jury here—an outlander, we might call him.

Q. (By Mr. Walsh) What did Mr. Bishop talk about?

A. As I recall, his conversation was on the program of the State organization of the Associated Farmers to carry on an educational program among all of the people through the newspapers.

(Testimony of Harold E. Botts.)

Q. Was he urging the persons at the meeting who were not members of the Kings County Association to become members?

A. I don't believe he made any reference to that. [1510]

Q. Was he demonstrating or attempting to demonstrate the value of an organization to the farming community?

Mr. Clark: We object to that on the ground it calls for an opinion and conclusion of the witness. I take it he can tell in substance what he remembers of Mr. Bishop's talk or speech, but as to the effect of it on other persons, I will make an objection.

Trial Examiner Lindsay: As to the effect on other persons, it is sustained.

May I have the question?

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: Objected to on the ground the question is improper in form and calling for the conclusion of this witness.

Trial Examiner Lindsay: He may answer that.

The Witness: Let me have that question again.

(The question referred to was read by the reporter, as set forth above.)

The Witness: My answer would be that I recall no demonstration or urging of the value of that organization to this community, but simply as a means of, you might say, better citizenship

(Testimony of Harold E. Betts.)

and a better community in which to live, not this community at all specifically, but the whole state.

Q. (By Mr. Walsh) Now, were there any other speakers there [1511] from the state organization?

A. I couldn't be definite. It may come to my mind. There were four speakers. I believe there were four speakers.

Q. Was Mr. Strathman there?

A. I don't believe he spoke there at that particular meeting. He may have.

Q. Do you recall who the other speakers were?

A. One of them was a minister from, I believe, Dinuba or Kingsburg in Fresno County.

Q. That is not in this county?

A. No; it was a Mr. Penner, a man that was born in Russia.

Q. Joe?

A. I think it was Joe's brother.

Q. All right.

Who else talked?

A. Let's see. I can't quite identify—if I heard the names on that particular program, I could tell you. I have heard several of those.

Q. Were the other speakers also from outside of the county?

A. I believe they were, yes.

Q. So, all told, you had four outside agitators in, is that right?

Mr. Clark: I object to that, may it please your

(Testimony of Harold E. Botts.)

Honor, on the ground it is absolutely uncalled for.

Trial Examiner Lindsay: Sustained. [1512]

Mr. Walsh: I will withdraw it.

Mr. Clark: If that is representing the Government of the United States in an impartial investigation of the facts having to do with a Federal statute, I miss my guess—Joe Penner, and outside agitators.

Mr. Walsh: I am only demonstrating the facts, if the Court please.

Trial Examiner Lindsay: I sustained the objection, and the remarks are unnecessary.

Mr. Clark: Very well. I have nothing to say.

Mr. Walsh: You may inquire.

Mr. Clark: No further questions.

Mr. Walsh: That is all.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Walsh: Mr. Riley.

Mr. Miller: If the Court please, my name is Mr. Walter Miller. I am an attorney in Corcoran. Mr. Riley asked me to represent his interests as he testifies. I don't believe it will be necessary for me to take any part in the proceeding, but I would like to have a right to be heard if I need to be.

Mr. Walsh: I have no objection inasmuch as I intend to examine Mr. Riley upon cross examination under 2055 of the [1513] California statute.

(Testimony of Forrest Riley.)

Mr. Clark: I don't think 2055 of the California statute——

Mr. Walsh (Interrupting): On the basis that he is an adverse witness.

Mr. Clark: I object to that, Mr. Examiner, because I do not think 2055 of the California statute applies to a Federal proceeding. In fact, I have had it ruled against me on several occasions by the United States District Judges. I don't want to argue the point, but I am going to object to any such methods of examination.

To begin with, Mr. Riley is not a party so far as I know.

Trial Examiner Lindsay: Well, he may examine the witness, as I stated before, and which has been demonstrated to the fullest extent here, that as far as I am concerned I don't pay any attention to any state statutes nor do I pay any attention to any outlined procedure as to the methods of the examination of the witness. I am only interested in all of the facts, and I expect the attorneys to get those facts.

I don't limit anyone to a direct examination and then close him out. I allow redirect, cross, and recross and surcross, and if there are any other terms to fit the occasion I also allow that. [1514]

In other words, you have a right under my procedure that I follow in my hearings to examine a witness until you have exhausted all of the sub-

(Testimony of Forrest Riley.)

ject matters that might be gone into. I think I have fully demonstrated that here, by allowing different attorneys to ask questions after the examination has been completed—you may sit down, Mr. Riley, so you won't have to stand—so that I don't believe it is necessary to quarrel with that matter.

Mr. Clark: Well, I understand your Honor's method in conducting this hearing, and I simply want the record to show, Mr. Examiner, that I am not assenting in any way to counsel's statement of 2055, that that section applies to this proceeding; and I vigorously contend it doesn't apply, so if there are any later developments it won't be contended that any advantages under that Statute have been conceded by me to counsel for the Board.

That is all I wish to say about it.

Trial Examiner Lindsay: Well, we will go on in the usual way.

Mr. Walsh: Will you state your name, please?

Trial Examiner Lindsay: Off the record.

(Discussion outside the record.)

Trial Examiner Lindsay: On the record.

Mr. Walsh: Will you state your name?

Mr. Riley: Forrest Riley. [1515]

Mr. Walsh: Where do you live?

Mr. Riley: Corcoran, seven miles out of Corcoran.

Mr. Walsh: I don't believe the witness has been sworn, your Honor.

FORREST RILEY

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Where do you live?

A. I live seven miles outside of Corcoran.

Q. What is your business?

A. I am a farmer.

Q. Are you a member of the Associated Farmers of Kings County? A. Yes, sir.

Q. When did you become a member?

A. Last fall some time. I don't remember the date.

Q. Have you ever held any office in that organization? A. No.

Q. How big a farm do you run? How many farms do you run?

A. Oh, my daughter and I together farm about 20,000 acres.

Q. What are the products that you raise?

A. Cotton and grain, alfalfa.

Q. What grains? [1516]

A. Barley, wheat.

Q. Now, do you have any interest in the J. G. Boswell Company? A. No.

Q. Do you have business dealings with the J. G. Boswell Company?

A. Oh, I have from time to time, but not lately.

(Testimony of Forrest Riley.)

Q. How recently have you had any dealings with the J. G. Boswell Company?

A. I can't recall.

Q. Did you ever do any financing through affiliated companies of the Boswell Company?

Mr. Clark: May I have those companies indicated, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Mr. Walsh: I will withdraw the question.

Q. Have you ever had any financial dealings with the J. G. Boswell Company, the J. G. Boswell Ranch Company, the J. G. Boswell Farm Loan Company, the J. G. Boswell Grain and Oil Mill Company? Have you ever had any dealings with any of those? A. I have.

Q. Which ones, Mr. Riley?

A. I guess it was Boswell Farm Loan Company, as far as I know. [1517]

Q. That involved a crop financing, did it?

A. Yes.

Q. Do I understand—is my understanding correct that when the occasion arises, or the need arises, that sometimes farmers borrow money and mortgage the crop to the person from whom they borrowed the money? A. Yes.

Q. That is correct, is it not? A. Yes.

Q. And that was the type of business dealing that you had with the Boswell Company?

A. Yes, but I haven't had any such dealings since 1933.

(Testimony of Forrest Riley.)

Q. 1933.

Have you ever sold in the last year any of your products to the Boswell Company, the J. G. Boswell Company? A. No.

Q. To whom do you sell, or to whom have you sold your products in the last two years?

A. I have sold to Anderson-Clayton Company and—I don't recall. I have sold cotton to several different people.

Q. Anderson-Clayton Company have a subsidiary company in this community?

A. Yes, called the San Joaquin Cotton Oil Company, I believe.

Q. Now, have you had any financial transactions in the way of loans from the San Joaquin Cotton Oil Company in the last [1518] two years?

A. Yes.

Q. How many such loans have you had from them? A. I can't recall.

Q. A great number, is that right?

A. Yes.

Q. All right.

Do you employ a number of people on your various farms?

A. Yes, at certain times I do, more than other times.

Q. About what is the peak of your employment, Mr. Riley?

A. Well, the peak is right now, around fifty men.

(Testimony of Forrest Riley.)

Q. About fifty men?

A. I don't mean now; I mean the peak is the cotton picking season.

Q. How many do you employ during the peak of the cotton picking season?

A. I can't say—one hundred, one hundred fifty.

Q. How many acres of cotton do you have this year?

A. I believe I have about 1400.

Q. The balance of your operation is in grain, hay?

A. (Nodding head affirmatively.)

Mr. Clark: Will you please answer so the reporter can get it, Mr. Riley? You just nodded your head then.

The Witness: Yes.

Q. (By Mr. Walsh) Now, Mr. Riley, directing your attention to [1519] January 30th, 1939, will you tell us where you were around 8:00 o'clock in the morning of that day?

A. I don't recall that day.

Q. Well, maybe I can make it a little more clear.

January 30th, I believe, has been identified as the day upon which a number of men, including yourself, ran pickets away from the Boswell plant. They said a great number of farmers came to the Boswell plant and told the pickets to leave, and you have been identified as being in that group of men.

(Testimony of Forrest Riley.)

A. Was that the 31st of January?

Q. I believe it is the 30th.

A. The 30th. You want me—

Q. (Interrupting) First, maybe I can make it a little simpler.

Where did you find out that there was going to be a gathering of farmers for the purpose of calling upon the picket line and asking them to disband? A. I don't remember.

Q. Well, now, were you with that group of men that came to the Boswell plant about 10:00 o'clock in the morning? A. Yes, I was there.

Q. Where did you meet those men?

A. At Mr. Salyer's place.

Q. Do you recall about what time you met them there?

A. Sometime in the morning, after 8:00 or 9:00 o'clock—10:00 o'clock. I don't remember. [1520]

Q. How many men were there?

A. I don't know.

Q. What is your estimate?

A. Two or three hundred; between two and three hundred.

Q. Did they all drive their own cars?

A. I don't know.

Q. Did you have anyone in the car with you?

A. No.

Q. You were alone?

A. Yes, I was alone.

Q. Who told you there was going to be such a meeting?

(Testimony of Forrest Riley.)

A. I don't remember. I heard it so many places I can't recall.

Q. When did you first hear it?

A. Oh, sometime in the week before.

Mr. Clark: May I have that answer, Mr. Examiner.

Trial Examiner Lindsay: Read it.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh) Would that be as early as the 19th of January?

A. I can't tell. I never kept any dates. I don't know.

Q. What is your best recollection? I can't expect you to remember the exact dates.

A. I can't recall what day it was; sometime before that day [1521] when we went down there.

Q. Was it two days?

A. I can't tell. I would think it was longer than that.

Q. Some time between two days and a week?

A. Somewhere in there.

Q. -Would you say it was four days?

A. I really can't recall.

Q. Do you remember the day of the week that you heard it? A. I do not.

Q. Did you tell anybody else that there was going to be a meeting?

A. I can't recall that, because everybody was talking about it.

(Testimony of Forrest Riley.)

Q. It was a matter of general knowledge throughout the farming community they were going to meet at Salyer's place some time in the morning of the 30th, is that right?

A. Well, it was some morning. I don't remember the date.

Q. Well, if the date has been testified to by other people as the 30th, would that seem about the time to you?

A. If that was the day, that was the day.

Mr. Clark: I don't think that question was answered, Mr. Examiner.

Trial Examiner Lindsay: He said if that was the day, that was it.

Mr. Clark: I mean before that. I don't think there is any [1522] response to Mr. Walsh's question as to whether or not this was a matter of general knowledge in the farming community. I don't think there is an answer to that. [1523]

Mr. Walsh: I will re-ask that question.

Trial Examiner Lindsay: I think there is an answer. Go back and get that, Mr. Reporter.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh) Will you tell us, if you desire in your own words, tell us what happened that morning rather than have me ask the questions. I would be glad to have you tell me.

A. As far as I can remember, we went down there in—down there to Mr. Salyer's place and

(Testimony of Forrest Riley.)

then went up to the gin and asked the pickets to leave.

Q. Now, were you in the front part of the line of cars or the back part or the middle?

A. I wasn't; no.

Q. I beg pardon? A. I wasn't.

Q. Do you recall who was in the front of the line? A. No.

Q. Can you give us the names of the persons present? A. No.

Q. Do you remember the names of any one person who was there?

A. I couldn't recall anybody was there because I saw so many of them I didn't pay any attention to any of them. [1524]

Q. Did you get out of the car? A. Yes.

Q. After you got to the gin? A. Yes.

Q. Did you talk with the pickets?

A. Yes. I talked with the second car that came up.

Q. Do you recall who was in that car?

A. No. I don't know any of them.

Q. Do you remember what was said?

A. I remember what I said.

Q. Will you tell me what you said?

A. Yes. They was—some of the rest of the fellows was talking to them and they sat there. I asked them if they wouldn't move on before somebody started some trouble, so they started on.

Q. That is all you said?

(Testimony of Forrest Riley.)

A. Something like that.

Mr. Clark: I would like an objection to all this line of testimony, Mr. Examiner. I will ask counsel for a stipulation that it may run to the entire line of testimony upon the ground it is incompetent, irrelevant and immaterial, and hearsay as to the respondent Associated Farmers of Kings County, Inc., no authority having been shown by that organization to this witness or anyone else with respect to the matters of January 30, 1939, and also on behalf of the other [1525] respondents in this proceeding I would like to make the same objection.

Mr. Walsh: I will stipulate that counsel may have such an objection to the entire line of questions.

Trial Examiner Lindsay: Yes.

Q. (By Mr. Walsh) Mr. Riley, do you remember the name of any of the pickets you saw there?

A. No. I don't know any of the pickets.

Q. Do you remember the names of any of the men of this 150 or 200 men that were with you on that day?

A. I suppose I do. All the farmers in the country were there.

Q. Well, will you tell us just which ones you do remember?

A. (Pause) As far as being up to Boswell's, I don't remember seeing anyone that I remember

(Testimony of Forrest Riley.)

there now; a big crowd of people, but I can't tell some of them that was out at Salyer's place.

Q. Did all of the people who were at Salyer's place in the morning come down to the mill?

A. I don't know.

Q. I will ask you whether or not you saw these people at the Boswell plant on the morning of January 30th. I will now read the names and you answer whether you saw them there or not.

G. F. Archer? [1526]

A. I don't remember him.

Q. George Cutter? A. No.

Q. Roy Filcher?

A. I don't remember seeing Filcher there.

Q. Ralph Gilkey? A. No.

Q. Walter Grisham?

A. I don't know Walter Grisham.

Mr. Clark: You don't know who he is?

The Witness: No.

Q. (By Mr. Walsh) Louie Hanson?

A. No.

Q. Phil Hanson? A. No.

Q. J. W. Hubbard? A. No.

Q. Slim Jones? A. No.

Q. Loyd Legget? A. No.

Q. Do you know Loyd Legget?

A. Yes, I know Loyd Leggett.

Q. H. L. Lang?

A. I don't know Mr. Lang. [1527]

Mr. Walsh: Strike that, please. It is H. L.

Haag, H-a-a-g.

(Testimony of Forrest Riley.)

Q. Do you know Mr. Haag?

A. I know Mr. Haag in Hanford.

Q. Yes, it is Mr. Haag of Hanford. Was he there that morning?

A. I don't remember seeing him.

Q. Ed Orchard? A. I don't recall.

Q. L. D. Fanner? A. No.

Q. G. F. Evans? A. I don't know him.

Q. Ralph Morgan? A. I don't know him.

Q. John Dawson? A. I don't know him.

Mr. Clark: May I have the answer?

The Witness: I don't know him.

Q. (By Mr. Walsh) E. L. Harp?

A. Harp? I know Mr. Harp but I don't recollect seeing him there.

Q. Hugo Buckner? A. No.

Q. Steve G-i-a-c-o-m-a-z-z-i? Do you know him? [1528] A. I don't know him.

Q. I don't even know how to say it.

Everett Hawes?

A. I know Everett Hawes, but I didn't see him there.

Q. George A. Smith?

A. I know George Smith.

Q. Was he there? A. I don't recollect.

Q. Charles Kimble?

A. I don't remember him at any time.

Q. E. R. Montgomery?

A. I don't know him.

Q. Joe Mackey? A. I know Joe Mackey.

(Testimony of Forrest Riley.)

Q. Was Ralph Marshal there?

A. Ralph Marshal was there.

Q. The next name is Forrest Riley.

A. He was there.

Q. He was there? A. Yes.

Q. E. C. Salyer?

A. I don't remember seeing Mr. Salyer.

Q. Glen Sego? A. I don't know him.

Q. Roland Squire? [1529]

A. I don't recall.

Q. William Turner?

A. I know Mr. Turner. I didn't see him at the Boswell gin.

Q. Robert Wilbur?

A. I know Mr. Wilbur. I don't remember seeing him at the gin.

Q. Brice Sherman? A. I didn't see him.

Q. Russel Slaybough?

A. I didn't see him.

Q. Out of all of these people I have named, about how many do you know personally?

A. I think I have told you how many I knew.

Q. Well, I didn't keep track of it. I didn't count them.

Mr. Clark: I object to that, may it please the Examiner, upon the ground it is simply a mathematical calculation. Unless Mr. Riley has been keeping track of those he has answered as not knowing——

Trial Examiner Lindsay (Interrupting): If he

(Testimony of Forrest Riley.)

has an estimate, he may give it. Give an estimate if you know.

Q. (By Mr. Walsh) I will amend the question to make it easier, perhaps, for Mr. Riley: Out of the crowd at the gin about how many did you know? A. I don't know. [1530]

Q. You estimated it at about 150 or 200?

A. Quite a crowd there.

Mr. Clark: That is a misstatement of the record. He said two to three hundred.

Trial Examiner Lindsay: That is right, two to three hundred.

Mr. Walsh: I am sorry. I thought that Mr. Riley testified that there was 150 to 200. Maybe that was some other witness.

Trial Examiner Lindsay: That was some other witness.

Q. (By Mr. Walsh) Out of that crowd, Mr. Riley, do you at this time recollect anyone besides Marshall?

A. Ralph Marshall is the only one that I remember seeing there that I talked to.

Q. Did you see anybody else there that you remember that you didn't talk to?

A. Lots of people there. I don't know. I can't recall who was there.

Q. Now, did you see any strangers there that morning that you had never seen before in your life? A. I don't know.

Q. You have no recollection?

(Testimony of Forrest Riley.)

A. Lots of people there, a big crowd. I don't suppose I knew all of them.

Q. Now, let us go back to the Salyer farm or the Salyer [1531] ranch before you started. Do you recall seeing any of the men I have named here at Salyer's ranch before you started down to the mill?

Mr. Clark: May it please the Examiner, I object to the form of that question. It would be impossible for the witness to keep in his mind the names that have been suggested to him. We have taken them down and I certainly can't and I don't think Mr. Walsh could repeat them from memory. If he is to be asked about them, I suggest they be re-read to him.

Trial Examiner Lindsay: Yes. Re-read them.

Mr. Walsh: I will re-read them to the witness.

Q. I will ask you, Mr.—

Mr. Clark (Interrupting): I understand this is at the Salyer farm?

Trial Examiner Lindsay: The Salyer ranch.

Mr. Clark: Is that correct, Mr. Walsh?

Mr. Walsh: May I ask the question?

Trial Examiner Lindsay: Yes.

Mr. Clark: I just wanted to know.

Q. (By Mr. Walsh) Mr. Riley, I will ask you to direct your attention to the morning of January 30, 1939, at the Salyer ranch, and tell me whether or not any of the persons whose names I am about to read were seen by you at the Salyer

(Testimony of Forrest Riley.)

ranch before you came down to the Boswell mill.

I [1532] will read this list.

George F. Archer?

A. I don't recall Mr. Archer.

Q. Roland Bailey?

A. What was that again?

Q. Roland Bailey?

A. I don't know him.

Q. George Cutter?

A. I know George Cutter. I couldn't say he was at the Salyer place.

Q. Roy Filcher?

A. Yes. Roy Filcher was there.

Q. Ralph Gilkey?

A. I didn't see Ralph Gilkey.

Q. Raymond Gilkey?

A. I don't remember Raymond being there.

Q. Walter Grisham?

A. I don't know him.

Q. Louie Hanson?

A. I don't remember Hanson being there.

Q. Phil Hanson?

A. I don't remember him.

Q. J. W. Hubbard?

A. I don't remember Hubbard being there.

Q. Slim Jones? [1533-1553]

A. I seen Slim Jones at Mr. Salyer's ranch.

Q. Loyd Legget? A. Mr. Legget.

Mr. Clark: May I have that answer so it will be clear?

(Testimony of Forrest Riley.)

Trial Examiner Lindsay: Mr. Legget.

Mr. Clark: May I have it indicated as to whether or not he was there or not?

Trial Examiner Lindsay: That is the answer to the question, that he was there.

Is that right, Mr. Witness?

The Witness: Yes, he was there.

Mr. Clark: Very well. All right.

Q. (By Mr. Walsh) Joe Mackey?

A. I don't remember seeing Mr. Mackey.

Q. Ralph Marshall?

A. I don't remember seeing Ralph Marshall at the ranch.

Q. Forrest Riley?

A. Forrest Riley was there.

Q. E. C. Salyer?

A. I saw Mr. Salyer there.

Q. Garland Salyer?

A. I can't recall seeing him there. [1554]

Q. Glen Segó? A. I don't know him.

Q. Ronald Squire?

A. I don't remember seeing him there.

Q. William Turner?

A. I can't remember.

Q. Robert Wilbur?

A. Yes. I seen Mr. Wilbur.

Q. Brice Sherman?

A. No, I didn't see Mr. Sherman.

Q. Russel Slaybough? A. No.

Q. W. L. Haag?

(Testimony of Forrest Riley.)

A. I don't remember seeing Mr. Haag there.

Q. E. J. Harp? A. No.

Q. Hugo Buckner? A. No.

Q. Steve G-i-a-c-o-m-a-z-z-i?

A. I don't know that fellow. I can't place him.

Q. Everett Howes?

A. I know Everett Howes. I don't remember seeing him at Salyer's place.

Q. George A. Smith?

A. I know Smith, but I don't remember seeing him there. [1555]

Q. Charles Kimble?

A. I don't remember seeing Mr. Kimble.

Q. E. R. Montgomery?

A. I don't know him.

Q. Ed Orchard.

A. I don't believe I know Ed.

Q. Lloyd Liggett?

A. Lloyd Liggett was there.

Q. L. D. Fanner?

A. I don't know Mr. Fanner.

Q. B. F. Evans?

A. I don't believe I know him.

Q. Ralph Morgan?

A. I don't believe I know Mr. Morgan.

Q. John Dawson? A. Him either.

Mr. Clark: May I have that answer?

The Witness: I don't know him.

Mr. Clark: You don't know him.

Q. (By Mr. Walsh) Did anyone arrive with you in your automobile from Salyer's ranch?

(Testimony of Forrest Riley.)

A. I answered that question once; no.

Q. Is your answer still no?

A. You asked me that about a minute ago.

Q. Now, where did you go after you left the mill on that morning? [1556]

A. I came to Corcoran, back to my office.

Q. Did you attend the barbecue that was held at the Salyer ranch that evening? A. Yes.

Q. How many people were there?

A. I don't know.

Q. What would your estimate be?

A. One hundred and fifty or two hundred.

Mr. Clark: May I have the answer?

The Witness: One hundred and fifty or two hundred.

Q. (By Mr. Walsh) What was the reason the barbecue was being held?

A. Kind of a get-together.

Q. Were there speeches that night?

A. Yes.

Q. Who were the speakers?

A. Mr. Harry Lee Martin from Los Angeles.

Q. Do you know who Mr. Martin is? I mean, what his position or occupation is?

A. I believe he is an attorney.

Q. Representing any particular group of people, or just a private counsel?

A. A private counsel, so far as I know. I don't know his business.

Mr. Clark: Well—— (pause)—— [1557]

(Testimony of Forrest Riley.)

Q. (By Mr. Walsh) Did he state—what did he talk about?

A. He talked about the subversive element.

Trial Examiner Lindsay: Mr. Reporter, will you go back and read back to me my discussion with the attorney representing Mr. Riley? It seems to me the record does not show I had no objection to him appearing as attorney for Mr. Riley. I don't believe the record shows I did not have any objection.

The Reporter: It was made during an off-the-record discussion.

Mr. Clark: I know that statement was made. I think you said you had no objection, and we didn't. Mr. Walsh thereupon said he didn't, and I said I didn't.

Trial Examiner Lindsay: Let the record show that I did make that statement and the attorney was permitted to appear for Mr. Riley.

Q. (By Mr. Walsh) Now, Mr. Riley, directing your attention again to the morning of January 30th at Mr. Salyer's ranch, do you have any recollection of talking with anybody there that morning?

A. I suppose I talked to several people, but I can't remember who it was now.

Mr. Clark: This being at the Salyer ranch in the morning, Mr. Walsh?

Mr. Walsh: That is right.

Q. Do you recall what you talked about? [1558]

A. No.

Q. Now, did you know that the people were to

(Testimony of Forrest Riley.)

leave the Salyer ranch and go down to the Boswell mill? A. Everybody said they was going.

Q. Can you give the names of anyone who said they were going? A. Everybody.

Q. Did you yourself say, "We are going down to the Boswell mill?"

A. I don't recall that I did. I went with the rest of them.

Q. Did any certain person fix the time that you were to leave the Salyer ranch?

A. Not that I know of.

Q. When did you receive notice that there was going to be a barbecue at the Salyer ranch that evening? A. I don't remember.

Q. Do you remember who told you?

A. No.

Q. Did you know that before you went there in the morning?

A. I don't recall whether I did or not.

Q. Mr. Riley, I will hand you a paper here which has been marked for identification as Board's Exhibit 15, and I will ask you if you have ever seen that before, or a copy of it?

(Thereupon, the document above referred to was marked as Board's Exhibit No. 15 for identification.) [1559]

The Witness: (Examining document) I have seen it before.

Q. (By Mr. Walsh) Under what circumstances?

(Testimony of Forrest Riley.)

A. I believe that was a piece of paper I gave some of the pickets that were sitting in the car. I went by and told them to read this.

Mr. Clark: What time was it?

Q. (By Mr. Walsh) When was it?

A. I don't remember; two or three weeks or a month after I was down there that morning. I remember giving them a paper, and I believe that was the one.

Q. How did this come into your possession?

A. I don't remember. I got it out of my office.

Q. Did you have more than one?

A. I believe I did.

Q. Did you have a substantial number?

A. I think I had about a half a dozen.

Mr. Clark: What was the answer?

The Witness: I believe I had about a half a dozen.

Trial Examiner Lindsay: Will you talk up?

[1560]

Q. (By Mr. Walsh) Where did you get them? Did you have them printed yourself?

A. I believe someone left them in my office.

Mr. Walsh: I would like to offer this document which is entitled "Editorial," reprinted from the Tulare Times, February 10, 1939, which has been identified as Board's Exhibit 15. I would like to offer it in evidence.

Mr. Clark: To which we object on the ground it is incompetent, irrelevant and immaterial; it is

(Testimony of Forrest Riley.)

the purest hearsay in regard to any of the respondents in this proceeding; no connection having been shown between Mr. Riley and any of the respondents which would in any manner authorize him to make any such statements or deliver any such literature to anyone.

I call the Examiner's attention to the fact that Mr. Riley is not named as a party here and that there is no authority shown from any respondents in this case to him to be passing out circulars such as that.

I would also like to direct your Honor's attention to the fact that the date of the article which you hold in your hand is February 10, 1939. That is a reprint from an article printed in some Tulare newspaper on that date and, therefore, it is totally without, or outside of the issues framed by the pleadings in this proceeding.

Trial Examiner Lindsay: The exhibit may be received in [1561] evidence.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 15.)

Q. (By Mr. Walsh) Now, Mr. Riley, did you give those papers, or similar papers to any of the employees of the Boswell Company?

A. No, I didn't.

Q. Just to the pickets, is that right?

A. I had one in my pocket like this (Indicating) and I thought it would be good literature for those boys to read. It might help them.

(Testimony of Forrest Riley.)

Mr. Walsh: That is all.

You may inquire.

Mr. Clark: May we have a short recess, your Honor?

Trial Examiner Lindsay: Yes.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Shall I proceed, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Cross Examination

Q. (By Mr. Clark) Mr. Riley, you are not an officer or director of the Associated Farmers of Kings County, are you? A. No.

Q. Have you ever been an officer or director of that or- [1562] ganization? A. No.

Q. Will you please state whether or not you attended the gathering, we will call it, at the plant of Boswell and Company here in Corcoran on the morning of January 30, 1939, as a result of any direction, suggestion, invitation, or authority whatsoever from the Associated Farmers of Kings County?

Mr. Walsh: I object as calling for a conclusion of law.

Mr. Clark: I will submit that. Under our practice, may it please your Honor, one who is either accused of being an agent or representative—and

(Testimony of Forrest Riley.)

that is the only theory this witness could be produced on—or who actually is, has a right to testify to his authority. That is a general rule of law.

Trial Examiner Lindsay: Do you have anything to say on that?

Mr. Walsh: Yes.

As a matter of fact, the law is quite the opposite. The declaration of the agents can not bind the principal.

Mr. Clark: That is hearsay statements where testified to by a third person, but the agent may take the stand and tell his authority.

Trial Examiner Lindsay: He may answer. [1563]

Mr. Clark: May I have the question read back, Mr. Examiner?

Trial Examiner Lindsay: Yes, read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: No.

Q. (By Mr. Clark) And is that likewise true so far as any officer of the organization is concerned?

Mr. Walsh: Same objection.

Mr. Clark: Withdraw that.

Q. Now, Mr. Riley, I want to ask you whether at this gathering at the Boswell plant on the morning of January 30, 1939, in the presence of Eugene C. Ely and R. K. Martin, or either of them, you stated in substance or effect to Mr. Martin in

(Testimony of Forrest Riley.)

response to a request by him as to who was doing this anyway, the following: "We, the Associated Farmers of Kings County"?

Mr. Walsh: I object unless the witness testifies he knows the individuals named in the question.

Mr. Clark: I am laying the foundation right from the record.

Trial Examiner Lindsay: Ask him if he knows.

Q. (By Mr. Clark) Do you know who Martin is? A. No, I don't know Mr. Martin.

Q. All right. Do you know who Eugene Clark Ely is? [1564] A. No.

Mr. Clark: I will reframe the question.

Q. Will you please tell us, Mr. Riley, whether or not at the gathering at the Boswell plant on the morning of January 30, 1939, you stated in substance or effect at any time in the presence of Loyd Legget—in the presence of E. C. Salyer, Roy Filcher, and Robert Wilbur, the following: "We, the Associated Farmers of Kings County"?

Mr. Walsh: I object unless it is testified that he knows that Loyd Legget, Roy Filcher, and E. C. Salyer were present at the Boswell plant.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well. I will reframe the question.

Q. Will you please state, Mr. Legget—

Trial Examiner Lindsay (Interrupting): Mr. Riley.

Mr. Clark (Continuing): Yes.

(Testimony of Forrest Riley.)

Q. Mr. Riley, whether or not on the morning of January 30, 1939, at the gathering of the Boswell plant you stated in substance or effect to anyone that the Associated Farmers were responsible for that gathering?

Mr. Walsh: I object unless the witness testifies that there were other present that he knows.

Mr. Clark: That is in the record.

Trial Examiner Lindsay: He may answer that.

Mr. Clark: May I have the question read? [1565]

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.)

Mr. Walsh: Now, before the witness answers, may I inquire from what page of the transcript you are reading?

Mr. Clark: I am reading from page—I am not reading from any page now, Mr. Counsel, because you knocked the props out from my impeaching question, and I am asking Mr. Riley if he made any statement to that effect there.

Mr. Walsh: I will object on the ground the question being asked the witness is not correct in stating the testimony in the record.

Mr. Clark: I will submit that.

Trial Examiner Lindsay: Off the record a minute.

(Here followed discussion off the record.)

(Testimony of Forrest Riley.)

Trial Examiner Lindsay: On the record.

Mr. Clark: I will reframe the question, then.

Q. Mr. Riley, at the gathering at the Boswell plant on the morning of January 30, 1939, did you hear anyone say in effect that the Associated Farmers of Kings County were responsible for that gathering?

Mr. Walsh: I object. There has been no claim that those words were used.

Mr. Clark: I will submit that in view of the testimony I have just read to the Examiner. [1566]

Trial Examiner Lindsay: He may answer that.

The Witness: No, I never heard anybody mention the Associated Farmers.

Q. (By Mr. Clark) Did you hear the term "Associated Farmers" mentioned that morning at the plant? A. No.

Mr. Clark: That is all.

Mr. Mouritsen: Mr. Examiner, could I conduct the redirect examination?

Trial Examiner Lindsay: If that is agreeable with counsel.

Mr. Clark: I didn't hear that.

Mr. Mouritsen: Would it be agreeable if I conduct the redirect examination?

Mr. Clark: Surely.

Redirect Examination

Q. (By Mr. Mouritsen) Now, Mr. Riley, when Mr. Walsh was conducting the examination, I believe you testified that you didn't recall anyone who

(Testimony of Forrest Riley.)

notified you of the meeting on the morning of January 30, 1939, is that correct?

A. I believe it is.

Q. Do you recall testifying to that effect? Is that correct?

Mr. Clark: What is that question again, Mr. Examiner?

Mr. Mouritsen: Whether he recalls testifying to that [1567] effect.

Mr. Clark: To what effect?

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I do not remember anybody telling me about the meeting.

Q. (By Mr. Mouritsen) And you don't recall the name of any individual who did notify you, is that correct?

Mr. Clark: Objected to on the ground it has been asked and answered.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Mouritsen) Now, do you recall when you were being asked by Mr. Clark that you testified that you weren't there because of any invitation by—given you by the Associated Farmers, is that correct?

A. No, the Associated Farmers wasn't mentioned up in that at all.

Q. Well, are you sure that the invitation given to you or the notification given you to attend that

(Testimony of Forrest Riley.)

gathering on January 30, 1939, wasn't given to you by the Associated Farmers?

A. I am sure it wasn't.

Q. Well, has anything happened to refresh your recollection in that regard? As to who did notify you on that oc- [1568] casion?

A. It is common talk all over town. Everybody said we were going to meet at Salyer's. I don't remember who told me. [1569]

Q. Now, why do you make the statement that you weren't there as the result of an invitation or notification by the Associated Farmers?

Mr. Clark: Objected to on the ground that it is argumentative.

Trial Examiner Lindsay: He may answer.

Mr. Clark: Improper redirect examination.

Trial Examiner Lindsay: He may answer.

The Witness: The Associated Farmers didn't have anything to do with that.

Q. (By Mr. Mouritsen) You stated you had no recollection as to who did notify you or invite you to that gathering?

Mr. Clark: Objected to as argumentative. It has been asked and answered.

Trial Examiner Lindsay: Sustained.

Mr. Mouritsen: Nothing further. That is all.

Mr. Clark: That is all from us, Mr. Examiner.

Mr. Walsh: I might want to recall Mr. Riley later in the proceeding. I would like to have the privilege, if the Examiner will allow, of having the

(Testimony of Forrest Riley.)

witness remain on call say for 24 hours or 12 hours, something of that kind.

Mr. Clark: You are going to be right here in the County, aren't you, Mr. Riley, for the next couple of weeks?

The Witness: I am pretty busy now. If at any time you people will let my daughter know at the office, she will get [1570] ahold of me, and I will come right away, inside of an hour or two.

Trial Examiner Lindsay: Then you are under orders of the Court here until released by all counsel, subject to recall within reasonable notice.

You think twenty-four hours' notice is reasonable notice?

The Witness: Yes, that is time enough.

Trial Examiner Lindsay: All right.

(Witness excused.)

Mr. Walsh: Mr. E. C. Salyer.

E. C. SALYER,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Will you state your name, please? A. E. C. Salyer.

Q. Where do you live?

(Testimony of E. C. Salyer.)

A. Corcoran, south and east of Corcoran.

Q. What is your business or occupation?

A. Farmer.

Q. How large a farming operation do you carry on?
A. Oh, small farm; small operation.

Q. How large? How many acres?

A. I guess—I don't know how many acres. [1571]

Q. Approximttely how many?

A. I imagine eight or ten thousand acres; maybe fifteen thousand.

Q. Somewhere between eight and fifteen thousand acres?
A. Yes.

Q. Are you a member of the Associated Farmers of Kings County?
A. I am.

Q. Do you recall when you became a member?

A. No, I don't.

Q. Do you remember the month?

A. No, I don't.

Q. Do you remember the year?

A. It was this year.

Q. 1939?

A. Yes. I am pretty sure of that. Now, I wouldn't be positive. I am sure it was along sometime in the spring, I believe.

Q. Do you know the J. G. Boswell Company?

A. Yes, sir.

Q. Did you ever have any financial dealings with them?
A. Quite a bit.

Q. To what extent in the last three years have

(Testimony of E. C. Salyer.)

you had financial dealings with J. G. Boswell Company or the affiliated companies?

A. I haven't got a record of that here. I would have to get [1572] that out of my office.

Q. What is your best recollection?

A. I wouldn't make a guess.

Q. Can you give us an approximate amount?

A. No.

Q. You sell the products of your farm to them?

A. Some of them.

Q. What products do you sell to them?

A. Well, sell most of the cotton.

Q. How much cotton did you have last year?

A. That I couldn't tell you.

Q. How many acres did you have?

A. I couldn't tell you that. I don't remember. I have got the records over in my office. I could go over there and get it.

Q. What is your best recollection?

A. Well, I imagine about 150 acres. I don't remember. I wouldn't make—wouldn't testify to how many acres it was.

Mr. Clark: That was the cotton, isn't that right?

The Witness: Yes.

Q. (By Mr. Walsh) Now, Mr. Salyer, on January the 30th, 1939, did you owe the Boswell Company or any of its affiliated companies any money?

A. I imagine—yes, I did.

Q. Approximately how much? [1573]

(Testimony of E. C. Salyer.)

Mr. Clark: I object to that on the ground it is incompetent, irrelevant and immaterial. It is an inquiry into the personal affairs of this gentleman which is not material at all to the issues here, Mr. Examiner. He said that he owed them money. Now, as to whether it is \$10.00 or \$100,000.00 I don't think makes any difference so far as its materiality is concerned.

Trial Examiner Lindsay: He may answer.

The Witness: I don't care to answer that.

Q. (By Mr. Walsh) Beg pardon?

A. I wouldn't answer that. I wouldn't know.

Trial Examiner Lindsay: Mr. Salyer, are you telling us that you are refusing to answer?

The Witness: No. I don't know. I wouldn't.

Q. (By Mr. Walsh) It is all a matter of public record, isn't it, anyway?

A. Yes. I don't know whether it is a matter of public record, but we have got it on the books down at the office.

Q. And most——

A. (Interrupting) Anybody that cares to know that has any interest at all, can know. We haven't anything to hide.

Q. Most of the transactions that you have had with the Boswell Company are in the nature of farm finances, are they not?

A. Well, various. I do lots of work for them—I have in the past,—on contract work for them, sold them products, [1574] borrowed money from them,

(Testimony of E. C. Salyer.)

done business with them various different ways; various farm equipment.

Q. Are you managing any of their farms at this time? A. No.

Q. All the farming conducted by you is conducted on land that you own? A. No.

Q. Some of it leased? A. Yes.

Q. How much land do you own?

A. About 500 acres.

Q. And the balance of the acreage between eight and fifteen thousand is leased, is that correct?

A. Yes.

Q. Is any of that leased from any of the Boswell companies? A. No.

Q. Now, directing your attention to January 30th, 1939, I believe there was a gathering of people at your farm in the morning, was there not?

A. I don't know about that.

Q. Were you at your ranch in the morning?

A. What was that question?

Trial Examiner Lindsay: Read the question.

(The record referred to was read by the reporter, as set forth above.) [1575]

The Witness: I wouldn't testify to that. I don't remember.

Q. (By Mr. Walsh) You don't remember the date? A. No.

Q. Do you recall the date on which a gathering of people gathered around the Boswell gin and asked the pickets to leave?

(Testimony of E. C. Salyer.)

A. Yes, I don't remember the date.

Q. You don't remember the date. That has been testified to here as January 30th, 1939.

Do you have any recollection of that date?

A. No.

Q. If other witnesses have identified it as that date, would you say that that would be the date?

A. I wouldn't say it was because I haven't any——

Q. (Interrupting): You recollect the incident, don't you? A. Yes.

Q. Now, directing your attention to that incident, the morning that they gathered down at the mill and asked the pickets to leave, had not that same group of people been at your farm earlier in the morning?

A. I wasn't—I wouldn't say that, no.

Q. Were some of the people who were at the mill——

A. (Interrupting): I don't know. There were some people gathered at my ranch that morning. [1576]

Q. There were people? A. Yes.

Q. How many people, do you know?

A. Oh, two or three hundred.

Q. Were you there? A. Yes.

Q. What was the object of their visit to you that morning?

A. Well, I wouldn't say. I don't know. To go down and ask the pickets to leave there; interfering with the moving of their produce. We didn't like

(Testimony of E. C. Salyer.)

it, didn't like them, and didn't like them to be there.

Q. And so it was a consensus of the opinion of the group that they should go on down and ask them to get away, is that it?

A. I believe that is the attitude of the people in this district now, that is, people that run the country and people that do things; the people here.

Q. Well, that was their attitude on that morning too, was it not?

A. I don't know about that. I don't remember what happened. There has been so many others, 15 or 20 meetings since then.

Q. Is it quite customary that a group of two or three hundred people stop at your ranch at 9:00 o'clock in the morning?

A. There have been several times they had that many there at night.

Q. That same night you had that many there, did you not? [1577]

A. I don't know about that. I don't know; a good deal more at different times.

Q. More than——

A. (Interrupting): I wouldn't testify what night it was, or what date it was, because I don't remember.

Q. Let us identify that occasion by it being the same date on which the pickets were asked to leave the plant.

Now, how many people were at your house that night?

A. I don't know.

(Testimony of E. C. Salyer.)

Q. Well, do you have any guess?

A. Seven or eight hundred.

Q. Now, getting back to the morning of that day, do you recall any of the people that were at your ranch that morning?

A. I don't think I could testify to that now.

Q. Do you recall having seen anybody there?

A. Oh, there was a lot of people there.

Q. Did you ever see anybody there that you know?

A. Lots of them. I don't remember all that was there.

Q. Do you remember the names of any individual person that was there?

A. I don't know. I wouldn't want to testify to that, they have been there so many times at different times; kind of hard—I didn't keep a record of it. I wouldn't want to testify to anything I haven't got a record of.

Q. Now, Mr. Salyer, did you have a tent up on your ranch that [1578] day?

A. No—in the morning when they met there?

Q. Yes. A. No.

Q. When did the tent go up?

A. In the afternoon.

Q. Whose tent was it?

A. (Pause). I can't recall the outfit in Fresno. I can't recall the name.

Q. Did you rent it from them? A. No.

Q. Did you buy it?

(Testimony of E. C. Salyer.)

A. I think we borrowed it. I don't know. Somebody said, "We want a tent," and the next thing I knew there was a tent up.

Q. Who said they wanted a tent?

A. I don't know who done that.

Q. Who put it up?

A. I couldn't tell you.

Q. Did your laborers on your farm put it up?

A. I think they helped. I am sure they did.

Q. For what purpose was the tent put up?

A. To hold meetings in.

Q. Is the tent still up? A. No. [1579]

Q. How long did it remain up?

A. Oh, I don't know; two or three weeks.

Q. How many meetings were held in the tent?

A. I couldn't tell you that; several.

Q. More than two?

A. I wouldn't say. At least three or four—two or three anyway.

Q. Now, under whose auspices were those meetings held?

A. I couldn't tell you that. I don't know if it was under anybody's auspices.

Q. Well, who was the person who notified you that they would like to borrow your tent to hold a meeting? A. It wasn't my tent.

Q. Who were the persons who said they would like to come out to your ranch and use the tent that was there, for the purpose of holding a meeting?

A. I don't know.

(Testimony of E. C. Salyer.)

Mr. Clark: May I ask, Mr. Examiner, that the witness speak up a little bit?

Trial Examiner Lindsay: Yes.

The Witness: I will tell you how it was. Everybody—well, everybody talking about it, and everybody—well, “let us go out and have a meeting.” I couldn’t tell you how it was. The whole God damn town, everybody.

Trial Examiner Lindsay: Let’s not swear. [1580]

The Witness: Excuse me.

First thing you know, there would be a crowd gathered there. [1581]

Q. Now, before the meeting in the morning that the pickets were asked to leave the plant, did you have any notice that people were going to come out to your ranch? A. No.

Q. You had no notice.

Did you ask anybody to come out to your ranch on that morning?

A. I don’t know whether I did or not. I might have and I might not. I wouldn’t say that I did.

Q. You heard Mr. Riley testify, didn’t you?

A. I heard part of it.

Q. You heard him say it had been talked around town about a week before that they were going to have a meeting out at your ranch?

A. Well, I don’t know whether I heard him say that, but I hadn’t heard it a week.

Q. Well, when was the first time that you knew that this group of people were going to gather at your place in the morning?

(Testimony of E. C. Salyer.)

A. I couldn't tell you that.

Q. Did you know the night before?

A. I don't know whether I did or not. I wouldn't say I did or I wouldn't say I didn't.

Q. Have you any recollection of knowing it the morning before? [1582]

A. I know it when they get up there. As I remember—I don't remember—I think I drove in and the whole yard was full.

Q. You were not at home when they came?

A. I don't remember, but I don't think I was.

Q. Do you remember where you had been?

A. No.

Q. Is that—

A. (Interrupting): That is too long ago.

Q. Is that your regular place of residence?

A. Has been for about 20 years.

Q. What time of the morning did they get there?
A. I don't know.

Q. What time did you get home?

A. I couldn't tell you that; gee, I couldn't, meet so many people and do so many damn things, I couldn't tell you.

Q. Have you been away overnight?

A. I don't remember. I wouldn't say. I don't know whether I was home or not.

Q. Don't remember whether you got up early in the morning and went out to transact some business and got back and found them there?

A. I generally get up about 8:00 or 9:00 o'clock in the morning. [1583]

(Testimony of E. C. Salyer.)

Q. Did you ask the members of your family when they started to arrive and what they were there for?

A. No. I don't remember that.

Q. Did you talk to any of the people that were there? A. Oh, I imagine I did.

Q. Who did you talk to?

A. I couldn't say who I did talk to; all talking at once.

Q. Anybody talk to you?

A. That I don't—I couldn't recall that.

Q. Now, did they all leave your place at one time and drive down to the Boswell mill?

A. I don't know whether they did or not.

Q. Did you go with them?

A. I went; left the ranch. I don't remember whether there was anybody with me or whether I went alone this time. I wouldn't want to testify.

Q. Did anybody ride in your car with you when you went down? A. I don't recollect.

Q. Now, what happened when you got down to the mill?

A. A big crowd gathered around there is about all I seen of it.

Q. Do you recollect having seen anybody there that you knew in the crowd?

A. I don't believe that I could testify that I did. I [1584] couldn't tell you definitely. I wouldn't want to testify to that.

Q. All these people strangers to you?

A. No, I don't suppose they were. I don't re-

(Testimony of E. C. Salyer.)

member who was all there and who wasn't there. I wouldn't testify that I could identify one of them.

Q. Did you see Forrest Riley there?

A. I don't know whether I did or not. I wouldn't say that I did.

Q. Did you see Lloyd Liggett there?

A. I don't remember seeing him.

Q. Now, Mr. Salyer, I am going to ask you whether or not you saw any of the individuals whose names I am about to read, at the Boswell mill on the morning that the pickets were asked to leave. As I read their names, you will please tell me whether you saw them there or not.

A. Will you ask that question again?

Mr. Walsh: Will you read the question, Mr. Reporter?

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh) When I refer to the Boswell mill, I mean the Boswell gin, the Boswell plant here in Mr. Corcoran.

G. F. Archer?

A. You mean did I see him there?

Q. Yes. [1585]

A. I didn't see him.

Mr. Clark: I can't hear you at all——

The Witness (Interrupting): No, I didn't.

Mr. Clark (Continuing): ——Mr. Salyer, so will you please——

May the witness be instructed to speak up, Mr. Examiner?

(Testimony of E. C. Salyer.)

Trial Examiner Lindsay: Yes. Talk just as if you were out there at the barn. (Laughter)

The Witness: I don't think you would like to hear that. (Laughter)

Trial Examiner Lindsay: I mean in volume.

Mr. Walsh: May we compromise on that?

Q. G. F. Archer?

A. Well, I didn't see him.

Q. Roland Bailey?

A. I don't know Roland Bailey.

Q. George Cutter? A. I didn't see him.

Q. Roy Filcher?

A. I don't remember seeing him.

Q. Ralph Gilkey?

A. I don't recall seeing him.

Q. Raymond Gilkey? A. No.

Q. Walter Grisham? [1586]

A. No, I don't recall seeing him.

Q. Louie Hanson? A. No.

Q. Phil Hanson? A. No, sir.

Q. J. W. Hubbard? A. No.

Q. Slim Jones? A. No.

Q. Lloyd Liggett?

A. I don't remember seeing him, either.

Q. Joe Mackey? A. No, sir.

Q. Ralph Marshall?

A. No. I couldn't recall.

Q. Forrest Riley?

A. I don't recall seeing Forrest Riley.

Q. E. C. Salyer? A. Yes. I was there.

(Testimony of E. C. Salyer.)

Q. Garland—(Interrupting, laughter.)

Trial Examiner Lindsay: Now, just a moment. Off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: Proceed on the record.

Q. (By Mr. Walsh) Garland Salyer? [1587]

A. I don't think he was there because I think he was working that day. I wouldn't be definite about that, but I am sure about it.

Q. Is he your son? A. My brother.

Q. Your brother.

Glen Segó?

A. I don't think I know him.

Q. Roland Squire? A. Who?

Q. Roland Squire—Ronald Squire?

A. I didn't see him.

Q. William Turner?

A. I don't remember seeing him; don't know.

Q. Brice Sherman?

A. I can't recall. I couldn't recall anybody, I don't think, that I seen there. I wouldn't want to testify that I did.

Q. Russel Slaybough? A. No.

Q. H. L. Haag?

A. Haag? I don't know Haag.

Q. E. L. Harp?

A. I don't know E. L. Harp.

Q. Hugo Buckner? [1588]

A. I didn't see him. I don't remember seeing him.

(Testimony of E. C. Salyer.)

Q. Steve Giacomazzi?

A. I don't remember him.

Q. Everett Howes? A. No.

Q. George A. Smith? A. No.

Q. Charles Kimble? A. No.

Q. E. R. Montgomery?

A. I don't know Montgomery, I don't believe.

Q. Ed Orchard?

A. I don't know Ed Orchard.

Q. Lloyd Liggett?

A. I don't remember seeing him.

Q. L. D. Fanner?

A. I don't know Fanner.

Q. G. F. Evans? A. Don't know him.

Q. Ralph Morgan?

A. I don't think I know him.

Q. John Dawson? A. I don't know him.

Q. Now, do you have any records or memoranda from which you might refresh your recollection as to who was there? [1589]

A. I didn't keep any record.

Q. Did anyone that you know of keep a record of the meeting?

A. I don't think so. I don't know. There might have been. I wouldn't say they did or didn't because I don't know.

Q. Now, directing your attention to that evening, a number of people came to your farm, to your ranch, and there was a meeting held in the tent, was there not? A. Yes, sir.

Q. For what purpose was that meeting held?

(Testimony of E. C. Salyer.)

A. Well, I don't think I am capable of testifying to that.

Q. Well, tell us what happened there.

A. Well, had some good speakers; had a good feed, lots of good farmers there.

Q. What was served to eat?

A. Roast pig, I believe. I think it was roast.

Q. Roast pig? A. I believe it was.

Q. Who paid for it?

A. I furnished the pig, killed the pig and roasted it. I don't think anybody paid for it.

Q. Was anything else served?

A. Yes, salads and lots of good stuff to eat.

Q. That is, you obtained things necessary for the barbecue?

A. I killed the pig and had it roasted and other than that I don't know. Somebody suggest having something and in [1590] about five minutes it would be there with it.

Q. Well, did you just have one pig?

A. By God, I couldn't tell you that, one pig or two pigs. We had roast pig.

Q. At least you only contributed one?

A. I think it was a roast hog, to tell you the truth about it. It looked pretty big.

Q. Did you actually do the butchering?

A. No.

Q. How many people were there?

A. I imagine five or six or seven hundred; six or seven hundred I imagine. I don't know; just a big crowd there. I will say that.

(Testimony of E. C. Salyer.)

Q. Were there more people there in the evening than there had been that morning when you came back home?

A. In my opinion there were; pretty sure of that.

Q. Approximately how many people gathered around the Boswell gin when the pickets were asked to leave?

A. Well, it would just be a bum guess if I made it.

Q. May I have your opinion?

A. I would say two or three hundred.

Q. By the way, did you notice any strangers in the crowd; people you had never seen before?

A. I don't recall.

Q. Do you recall anyone making arrangements with you to [1591] use that tent after that first meeting for a subsequent meeting?

A. May I have that question?

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I don't recall.

Q. (By Mr. Walsh): What became of the tent?

A. We took it down.

Q. Pardon me?

A. We took it down.

Q. Is it still at your ranch? A. No.

Q. Do you know who got it?

A. The people that owned it got it.

(Testimony of E. C. Salyer.)

Q. Did you ever pay any rental for it?

A. No.

Q. Now, do you recall what was said at that meeting that night, the first night meeting, after the pickets were asked to leave?

A. No, I don't.

Q. Do you have any recollection of what was said? A. I couldn't recall what was said.

Trial Examiner Lindsay: I am not quite clear on one thing. [1592]

Did I understand that at the meeting of the night after this picket affair you had speakers there?

The Witness: Yes, we had one speaker there.

Mr. Clark: May I hear that, please? What was the answer?

Trial Examiner Lindsay: He said yes, they had one speaker there.

Mr. Walsh: Will you excuse me a moment?

You may inquire. [1593]

Cross Examination

Q. (By Mr. Clark): Mr. Salyer, have you ever been an officer or director of the Associated Farmers of Kings County? A. No, sir.

Q. Never at any time; is that correct?

A. Never.

Q. You went down to the Boswell plant from your ranch on the morning of this gathering, didn't you? A. I did.

Q. Will you please state whether your going to

(Testimony of E. C. Salyer.)

the Boswell plant on that occasion was the result of any invitation, suggestion or authority whatsoever to you from the Associated Farmers of Kings County?

Mr. Walsh: I object.

Mr. Clark: Submit it.

The Witness: No.

Mr. Walsh: I move the answer go out for the purpose of the objection.

Mr. Clark: Stipulated.

Trial Examiner Lindsay: He may answer.

The Witness: What was the question?

Mr. Clark: May I have the question?

Trial Examiner Lindsay: Yes. Read the question.

(The question referred to was read by the reporter, as set forth above.) [1594]

The Witness: It was not.

Mr. Clark: Now, let me direct your attention, Mr. Walsh, to page 1367 of the transcript of this proceeding.

Mr. Walsh: I will have to let you ask it this time.

Mr. Clark: I think probably you will if I can get the answer out of him.

Q. I would like to ask you, Mr. Salyer, whether or not on the occasion of this gathering at the Boswell plant which has been referred to in your examination, you said in substance or effect to anybody in the presence of Lloyd Liggett, Roy Filcher,

(Testimony of E. C. Salyer.)

and Robert Wilbur, or any of them, the following:
“That we, the Associated Farmers of Kings County, are responsible for this gathering at the Boswell plant?”

Mr. Walsh: I object unless he testifies that Lloyd Liggett, Roy Filcher and Robert Wilbur were present.

Mr. Clark: I will withdraw the question.

Q. Mr. Salyer, will you please tell us whether or not on the occasion of this gathering at the Boswell plant on the morning of January 30th, 1939, you stated in substance or effect to anyone whomsoever that the Associated Farmers of Kings County were responsible for the gathering at the Boswell plant? A. I did not.

Mr. Clark: That is all.

Mr. Walsh: That is all.

Mr. Clark: That is all from us. That is all, Mr. Salyer. [1595]

Mr. Walsh: May I ask one more question?

Mr. Clark: Yes.

Mr. Walsh: How can you be sure it wasn't the Associated Farmers who asked you to come down there?

The Witness: Nobody asked me to go down there.

Mr. Walsh: Therefore, you know it was not the Associated Farmers?

Mr. Clark: Objected to on the ground it is argumentative, therefore you know this and that.

(Testimony of E. C. Salyer.)

Mr. Walsh: I admit it.

I would like to have this witness remain under the order of the Court on the same basis of Mr. Riley. I may want to recall him later. However, I will try to give him at least 12 to 24 hours' notice.

Trial Examiner Lindsay: You are to remain under the order of the court and subject to recall.

The Witness: I will be available on a couple of hours' notice any time.

Trial Examiner Lindsay: All right.

(Witness excused.)

Trial Examiner Lindsay: You have one more witness?

Mr. Walsh: Yes, one more witness. We would like a short recess before we start in.

Trial Examiner Lindsay: Yes.

(At this point a short recess was taken, after which [1596] proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Walsh: Lloyd Liggett.

LLOYD LIGGETT

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh): Will you spell your name, Mr. Liggett?

(Testimony of Lloyd Liggett.)

A. L-l-o-y-d L-i-g-g-e-t-t.

Q. Where do you live?

A. I live in Guernsey.

Q. In Kings County? A. Yes.

Q. California? A. Yes, sir.

Q. How long have you lived there?

A. Oh, about forty years.

Q. Are you a farmer? A. Yep.

Q. How large a farm do you have?

A. I have forty acres.

Q. Do you lease any land? A. A little.

Q. How much? [1597]

A. One hundred sixty acres.

Q. Do you have any other occupation besides that of farming for yourself?

A. I am a little contractor and a cook.

Q. For whom do you contract?

A. Just whomever I can get to do work for.

Q. And what do you contract?

A. Plowing and stuff like that.

Q. Did you do work for the J. G. Boswell Company within the last year?

A. Not for wages. Just a little of the contract work, a little of it.

Q. What did you do for them?

A. When I was working for them?

Q. Yes.

A. A ditch; taking care of water.

Mr. Clark: I think the witness misunderstood the question.

(Testimony of Lloyd Liggett.)

Mr. Walsh: Yes.

Q. What did you do for the Boswell Company while you were contracting for them?

A. Plowing.

Q. How much plowing did you do for them?

A. I don't know how much. I have done quite a lot of it.

Q. How much did you work for them within the last twelve months? [1598]

A. How much contract work?

Q. Yes.

A. I don't know just how much.

Q. Do you do the work yourself, or do you have equipment and men?

A. I do some of it.

Q. Were you employed by them on the 30th day of January, 1939?

A. I don't know if I was or not. Not my own self. Maybe I might have been doing some work for them, a contract work a little.

Q. Do you have any recollection of having a contract working for them during that time?

A. I don't.

Q. You don't.

Directing your attention to the 30th day of January, which is the day that it has been testified to here that the pickets were asked to leave the Boswell plant. I will ask you whether or not on that morning you were at the Salyer ranch?

A. Yes, I was down there.

(Testimony of Lloyd Liggett.)

Q. What time did you get down there?

A. I don't know what time. In the morning some time.

Q. In the forenoon?

A. In the morning. I said in the morning. That would be the forenoon. [1599]

Q. Would it be as early as 9:00 o'clock?

A. I don't know.

Q. Were you in Hanford that morning?

A. I don't think so.

Q. Isn't it a fact that you were in Hanford at 9:30 that morning?

A. I don't know if I was or not.

Q. Do you have any recollection of having been in Hanford before you went to the Salyer ranch?

A. I don't know about being in Hanford the 30th day.

Q. Did you have any reason to go to Hanford on that day?

A. I don't know. I go to Hanford a lot of times. I go to Hanford every day or every day or two.

Q. Do you remember the day of the week that was? A. No.

Q. How long did you remain at the Salyer ranch? A. I do not know.

Q. Was anyone else there?

A. I imagine there were. I don't know. There are lots of men out there all the time.

Q. What is that?

(Testimony of Lloyd Liggett.)

A. Frank Salyer had lots of men there all the time working around.

Q. Did you see anyone there that didn't appear to be working? [1600]

A. I do not know.

Q. Did you see anybody there who were other farmers that you knew?

A. I couldn't tell you.

Q. Did you—would you estimate that there was a crowd of people there?

A. Oh, I imagine there was.

Q. How many do you think were there?

A. Maybe a couple of hundred.

Q. What were they doing there?

A. I don't know; just like a man going to hear about anything. You start a fight and you soon get a crowd.

Q. Was there a fight there that night?

A. No.

Q. Well, what did you go there for?

A. I just heard of the meeting out there, and I went out there.

Q. Who told you?

A. I don't know. I just heard it on the streets, somebody talking.

Q. When did you hear about it?

A. I guess I must have heard about it before I went out there that morning, or I wouldn't have went.

Q. Did you hear about it here in Corcoran?

(Testimony of Lloyd Liggett.)

A. I guess I did. [1601]

Q. Were you here in Corcoran that morning early?
A. I don't know how early.

Q. I beg your pardon?

A. I don't know how early I was in Corcoran.

Q. Do you remember how long you stayed there?
A. No.

Mr. Clark: There, meaning where?

Mr. Walsh: Pardon me.

Q. Do you know how long you stayed at the Salyer ranch?
A. No.

Q. Do you know—do you remember when you left there?
A. No.

Q. Where did you go when you left the Salyer ranch?

A. We went down to the gin, I guess.

Q. What did you do there?

A. I don't know if I did anything or not.

Q. Had you been at the Boswell Company's office that morning prior to going to the Salyer ranch?
A. No.

Q. Did you talk with Mr. Robinson that morning before you went to Mr. Salyer's ranch?

A. No, sir.

Q. Did you talk to any official of the Boswell Company on the morning of January 30th, 1939, prior to going to the Boswell ranch? [1602]

A. I don't remember.

Q. And you are very definite that you were not at the plant before then, before you went out there?

A. I don't know if I was there or not. [1603]

(Testimony of Lloyd Liggett.)

Q. I would like to have you give us your best recollection on that.

A. I can't remember. It is too far back.

Q. If witnesses were brought here to testify that you were seen coming out of the Boswell plant, would that refresh your recollection?

A. I wasn't there that morning.

Q. Pardon me?

Mr. Clark: May I have that answer?

(The answer referred to was read by the reporter, as set forth above.)

Mr. Clark: That is that morning?

Mr. Walsh: Of January 30th, the morning the men were asked to leave the picket line.

Q. Were you at the Boswell offices?

A. That morning?

Q. Yes. A. I don't think I was.

Q. I would like to have you be very certain about it because my information was that you were there.

Mr. Clark: I object to that manner of questioning the witness, Mr. Examiner.

Mr. Walsh: I would like the privilege of advising the witness that this is really a serious proceeding and that there might be serious consequences of his failure to [1604] not earnestly try to give us all that he knows about it.

Mr. Clark: This witness happens to be called on direct examination by the Government and it is their witness, and I object to that manner of conducting the examination.

(Testimony of Lloyd Liggett.)

Mr. Walsh: Inasmuch as he is my witness, I will instruct him.

Mr. Clark: You have no right to instruct him in that manner, according to my rules of evidence, and I will submit it so far as the Examiner is concerned.

Trial Examiner Lindsay: Let me state that when a witness takes the stand, if he knows anything about the thing, I want to have him tell it.

Q. (By Mr. Walsh) Now, Mr. Liggett, I would like you to be very careful and tell me whether or not you were at the Boswell plant, the Boswell gin, or the Boswell offices on the morning of January 30th prior to going to Mr. Salyer's ranch.

Mr. Clark: Objected to on the ground it has been asked and answered twice now.

Trial Examiner Lindsay: He may answer.

The Witness: I don't remember exactly whether I was there or not.

Q. (By Mr. Walsh) Now, will you give me the time as near as you can at which you arrived at the Salyer ranch.

A. I couldn't tell you. I don't remember. [1605]

Q. Now, did you see Mr. Salyer at his ranch that morning?

A. I don't think I did. I don't remember seeing him.

Q. Did you see Forrest Riley there?

A. Yes, I believe I did.

Q. Did you talk to him?

(Testimony of Lloyd Liggett.)

A. I don't know. I don't think so.

Q. Did you talk to anyone that you knew there that morning?

A. Well, I don't remember whether I have or not.

Q. Can you give me the name of any other person besides Forrest Riley that you saw there?

A. No, I don't believe I can.

Q. Now, I am going to ask you whether or not you saw any of the following people at the Boswell gin at the morning that the pickets were asked to leave:

G. F. Archer?

A. I don't remember seeing him.

Q. Roland Bailey? A. I don't know him.

Q. George Cutter?

A. I don't remember seeing him.

Q. Roy Filcher?

A. I don't remember seeing Roy.

Q. Ralph Gilkey? A. No. [1606]

Q. Raymond Gilkey? A. No.

Mr. Clark: What does the no mean? May I ask that, Mr. Examiner, that there was no recollection, or he wasn't there positively.

The Witness: I don't remember seeing him positively.

Q. (By Mr. Walsh) I believe you had better state that in each case that you don't remember.

Louie Hanson?

A. I don't remember seeing him.

(Testimony of Lloyd Liggett.)

Q. Phil Hanson?

A. I don't remember seeing him.

Q. Phil Hammond?

A. I don't remember seeing him either.

Q. J. W. Hubbard?

A. I don't know J. W. I don't know if that is his name. I know a Hubbard, but I don't know if that is his initial.

Q. He works for the Boswell Company?

A. I don't remember seeing him there.

Q. Slim Jones?

A. No, I don't remember seeing him.

Q. Joe Mackey?

A. No, I don't remember seeing him.

Q. Ralph Marshall?

A. I don't remember seeing him. [1607]

Q. Forrest Riley? A. Yes.

Q. E. C. Salyer?

A. No, I don't remember seeing him.

Q. Garland Salyer?

A. No, I don't remember seeing him.

Q. Glen Segoe?

A. I don't remember seeing him.

Q. Ronald Squire?

A. I don't remember seeing him.

Q. William Turner?

A. I don't remember seeing him either.

Q. Robert Wilbur?

A. No, I don't remember seeing Robert.

Q. Brice Sherman?

A. I didn't see Brice.

(Testimony of Lloyd Liggett.)

Q. Russel Slaybough?

A. I don't remember seeing Russel.

Q. R. L. Haag?

A. Is he from Hanford? I don't know. I guess I know. I don't remember seeing him there.

Q. E. L. Harp?

A. I don't know him.

Q. Hugo Buckner?

A. I didn't remember seeing him. [1608]

Q. Steve Giacomazzi?

A. No, I don't remember seeing him.

Q. Everett Howes? A. No.

Q. George A. Smith?

A. I don't remember seeing him either.

Q. Charles Kimble?

A. I don't remember seeing him either.

Q. E. R. Montgomery?

A. No, I don't remember seeing him either.

Q. Ed Orchard? A. Not him either.

Q. L. D. Fanner? A. Don't know him.

Q. G. F. Evans? A. Don't know him.

Q. Ralph Morgan? A. Don't know him.

Q. George Dawson?

A. I don't remember seeing him.

Q. Now, Mr. Liggett, did you tell anyone that there was a meeting going to be held at Mr. Salyer's ranch?

A. I don't remember telling anybody.

Q. Did you drive to Mr. Salyer's ranch alone?

A. I think I did. [1609]

Q. Did you bring anybody back with you?

(Testimony of Lloyd Liggett.)

A. I don't remember whether I did or not.

Q. Where did you go after you had left the Boswell gin and the pickets had been asked to leave?

A. I don't remember where I went.

Q. Did you recognize any of the pickets?

A. Steve Griffin.

Q. Did you talk to Steve?

A. I said a few words to him.

Q. What did you tell him?

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial; hearsay as to all of these respondents, no connection shown between this witness and any of the respondents in this proceeding; and certainly no authority shown by any respondent to this witness to speak for it with regard to any of the issues in this proceeding.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Walsh) What did you say to Steve?

A. I asked him what he was sitting there for.

Q. What did he say to you?

A. He said, "I don't know."

Q. What did you say to that?

A. I didn't say anything.

Mr. Clark: May my objection go to this whole line of conversation? [1610]

Mr. Walsh: So stipulated.

Q. Was that all you said to him?

A. As far as I remember.

Q. Did you ask him to leave?

A. I don't think I did.

(Testimony of Lloyd Liggett.)

Q. Did you hear anyone else ask the pickets to leave? A. No, I didn't.

Q. Did you talk to any of the other pickets?

A. No.

Q. Did the pickets leave?

A. I think they did.

Q. Did they have any difficulty getting the car started? A. I don't remember.

Q. Did you hear one of the pickets say that the starter of his car was broken and that they would have to push it?

A. I don't remember it.

Q. Do you remember whether or not the car was pushed until it was started?

A. No, I don't.

Q. Where did you park your car with reference to the picket car?

A. As best I remember, out between the office and the scale house.

Q. And was it in front or in the rear of the picket car?

A. Between the scale house and the office.

Q. Yes. [1611]

It was not on the highway? Was it on the highway? A. I don't remember.

Q. Now, was your car in front or in the rear of the picket car? A. I imagine in front.

Q. How far in front? A. I don't know.

Q. What is your best recollection on that?

A. 15 or 20 feet, I guess. I wouldn't say exactly how far.

(Testimony of Lloyd Liggett.)

Q. Now, were you the first car in the line of the persons coming from Mr. Salyer's ranch?

A. I don't know if I was or not. I couldn't say.

Q. Were any other cars belonging to this group of farmers parked in front of your car?

A. I don't know.

Q. Where did the other farmers park their cars? A. I don't know.

Q. Did they—did all of the farmers remain in their cars? A. I don't know that either.

Q. Did you see any of them on the highway or around the scale house there?

A. I didn't pay much attention to them.

Q. What were you doing?

A. Standing there, just looking on. [1612]

Q. What were you looking at?

A. What do you suppose I was looking at?

Trial Examiner Lindsay: Just a moment. Answer the question.

Q. (By Mr. Walsh) You were looking at whom? Steve Griffin?

A. I guess I was.

Q. Who was the other boy with him?

A. I don't know.

Q. Did you say anything further to Steve other than asking him what he was doing there?

A. I don't remember whether I did or not.

Q. Do you recollect of having said anything else there that day? A. I don't remember.

(Testimony of Lloyd Liggett.)

Q. Did you hear anybody else say anything there? A. No, I didn't.

Q. Well now, will you tell us in your own words just what took place after you arrived and parked your car and got out? A. I done told you.

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I don't remember what took place.

Q. (By Mr. Walsh) Did you see Roy Filcher there? [1613]

A. I don't remember seeing Roy.

Q. Did you see Mr. E. C. Salyer there?

A. Don't remember seeing Clarence there.

Q. Did you see Robert Wilbur there?

A. I don't remember seeing Robert.

Mr. Clark: That is, at the plant?

Mr. Walsh: This is at the plant at the time the pickets were asked to leave.

Mr. Clark: I see.

Q. (By Mr. Walsh) Did you hear anything that anyone else said around there?

A. No, I didn't.

Q. Do you know whether or not the pickets left, Mr. Liggett?

A. I don't know for sure; can't say.

Q. Now, did you attend the night meeting at Mr. Salyer's ranch? A. Yes.

Q. How many people were there, would you say?

(Testimony of Lloyd Liggett.)

A. I couldn't estimate. Couldn't say.

Q. What took place there, do you remember?

A. I don't know. I was cooking, helping a little bit in the cook house. I don't know what took place.

Q. Do you know whether or not speeches were made?

A. I couldn't tell you. I was in the cook house.

Q. Now, why did you go down to the gin on the morning of January 30th? [1614]

A. I don't know whether I went down there. I don't think I went down there. The best I remember, I don't know.

Q. Well, down to the plant where the pickets were, did you go—you went down there?

A. I was down at the gin where the pickets were.

Q. Why did you go down there that morning?

A. Well, I don't remember what I went down there for.

Mr. Clark: Is there some confusion between counsel, Mr. Walsh, and the witness?

Trial Examiner Lindsay: Proceed. I don't think there is any confusion. Proceed.

Q. (By Mr. Walsh) Well, now, what I would like to know is this, Mr. Liggett: Tell me why you went from Mr. Salyer's ranch down to the Boswell Company's gin?

A. Just followed the bunch down there.

Q. Well, what purpose did you have in speaking to Steve?

(Testimony of Lloyd Liggett.)

A. Well, I don't know, just spoke to him because I knew him well.

Q. Did you have any objection to the pickets being there, Mr. Liggett?

A. I didn't myself.

Q. Did you have any cotton in the warehouse?

A. I don't remember now whether I did or not. I don't think so. I couldn't say.

Q. Beg pardon? [1615]

A. I don't think I did. I don't remember.

Q. Do you have any there now?

A. No, sir. Whether I had any then or not, I don't know for sure.

Q. Well, did you have any cotton in there this last season? A. Did I have any there?

Q. Yes.

A. I did the first part of the season.

Q. How much did you have in there?

A. Not very much.

Q. Approximately how many bales?

A. Oh, probably fifty bales, maybe less, more or less. I don't know for sure.

Q. Is it still there?

A. No. I don't own it if it is.

Q. When did you get paid for it?

A. I don't remember.

Q. Well, did you get paid for it before the pickets were asked to leave, or afterwards?

A. I don't know. I don't remember when I got paid for it.

Mr. Walsh: You may inquire.

(Testimony of Lloyd Liggett.)

Cross Examination

Q. (By Mr. Clark) Mr. Liggett, will you give us your best recollection as to whether or not you went down to the Boswell plant on the morning of this gathering which has been referred [1616] to on your direct examination before you went to the Salyer ranch?

A. I don't remember going down there before I went to the Salyer ranch.

Q. Well, what is your best recollection whether you did or not?

A. I just don't remember whether I went down there or not.

Q. All right. That is the best you can do for us on that?

A. That is the best I can do on that.

Q. Very well.

Now, will you please tell us whether, when you went back to the Boswell plant from the Salyer ranch on that morning, you did so as the result of any invitation or suggestion or authority to you from the Associated Farmers of Kings County?

Mr. Walsh: I object.

The Witness: The Associated Farmers——

Mr. Walsh (Interrupting): Just a minute, Mr. Liggett, I have objected.

Mr. Clark: Submit it.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Clark) You can answer that.

A. No Associated Farmer had anything to do with it that I know of.

Q. All right.

(Testimony of Lloyd Liggett.)

Now, will you please tell us, Mr. Liggett, whether or not [1617] on that morning, while you were at the Boswell plant after going there from the Salyer ranch, you stated, in substance or effect to anyone there, that the Associated Farmers of Kings County were responsible for the gathering?

Mr. Walsh: I object.

The Witness: I didn't.

Mr. Clark: I submit it.

Trial Examiner Lindsay: He may answer.

The Witness: I did not.

Mr. Clark: That is all.

Just one further thing.

Q. Did you hear the term "Associated Farmers" mentioned at all while you were down there at the plant? A. I never did.

Mr. Clark: That is all.

Redirect Examination

Q. (By Mr. Walsh) Mr. Liggett, how can you be so positive that you didn't hear it when you told me you didn't remember or never heard anything said there?

Mr. Clark: Objected to as argumentative, improper redirect examination.

Trial Examiner Lindsay: He may answer.

The Witness: What was the question?

Mr. Walsh: Would you read it?

Trial Examiner Lindsay: Read the question. [1618]

(The record referred to was read by the reporter, as set forth above.)

(Testimony of Lloyd Liggett.)

The Witness: Talking about the Associated Farmers?

Q. (By Mr. Walsh) Yes.

A. I don't know. I never heard Associated Farmers ever mentioned. I know that.

Mr. Clark: The question is, how are you positive of that?

The Witness: I just don't know.

Q. (By Mr. Walsh) How do you know that the Associated Farmers didn't have something to do with that?

Mr. Clark: I object to this upon the ground it is incompetent, irrelevant and immaterial, and also, may it please your Honor, assuming something which isn't in the evidence of this particular witness.

Trial Examiner Lindsay: He may answer.

Mr. Walsh: Read the question.

(The record referred to was read by the reporter, as set forth above.)

The Witness: Well, I never heard the Associated Farmers' name mentioned.

Mr. Clark: May I have that answer read back? [1619]

Trial Examiner Lindsay: Yes. Read the answer.

(The record referred to was read by the reporter, as set forth above.)

Mr. Walsh: That is all.

Mr. Clark: No further questions from us.

Mr. Walsh: I would like to have this witness

(Testimony of Lloyd Liggett.)

remain at the orders of the court under the same circumstances as Mr. Riley and Mr. Salyer. That is all I have to offer at this time, your Honor.

Trial Examiner Lindsay: You are to remain under order of the court and you will be notified if it is necessary to call you back.

The Witness: When do you want me?

Trial Examiner Lindsay: I don't know.

Mr. Walsh: I will——

The Witness (Interrupting): Give me a couple of days' notice.

Mr. Walsh: I will give the witness at least 24 hours' notice.

Mr. Clark: Is that enough?

The Witness: I don't know—24 hours—you better give me a little more than that. I may be on the south side of the lake down there.

Mr. Walsh: If I can, I will give you more than that.

Mr. Clark: I think we can work that out. If you call [1620] any of these people, we can get the ones who can be here in a couple of hours' notice first.

You don't intend to leave the county?

A. No, no. I didn't want to be here tomorrow.

Mr. Walsh: Probably the latter part of next week.

Trial Examiner Lindsay: Now, are you familiar with court procedure?

The Witness: Not too much.

Trial Examiner Lindsay: Have you heard court hearings before?

(Testimony of Lloyd Liggett.)

The Witness (Shaking head negatively):

Trial Examiner Lindsay: Ever been in court before?

The Witness (Shaking head negatively.)

Mr. Clark: The witness is just shaking his head. May we get the answer.

Trial Examiner Lindsay: You are getting the answers?

The Reporter: Yes.

Trial Examiner Lindsay: Well, I would just like to state that if a person has information and he knows that information and he withholds it, that is a violation of an oath just as well as it is to knowingly misstate a fact. That is all.

Mr. Walsh: I would like now to announce for the benefit of the witness, and other witnesses who might be here, if you find any matter that refreshes your recollection in [1621] the next few days, you might let me know.

(Witness excused.)

Mr. Clark: That is all from us.

Mr. Walsh: That is all we have for this evening, your Honor. I might suggest, if it meets with your wishes, that we adjourn.

Trial Examiner Lindsay: Yes. We will adjourn until 8:00 o'clock in the morning.

(Thereupon, at 4:45 o'clock p. m., Friday, June 2, 1939, the hearing was adjourned to 8:00 o'clock a. m., Saturday, June 3, 1939.) [1622]

American Legion Hall
Corcoran, California,
Saturday, June 3, 1939.
8:00 o'Clock a.m. [1623]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Respondents are ready.

Mr. Walsh: The Board is ready.

Mr. Cutter.

GEORGE HENRY CUTTER

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) State your full name, please? A. George Henry Cutter.

Q. Where do you live? A. Corcoran.

Q. What is your business or occupation?

A. Grain, feeds.

Q. Are you a member of the Associated Farmers of Kings County?

A. Associated Farmers, yes.

Q. Directing your attention to January 30th, 1939, in the morning of that day, which has been identified as the day upon which the pickets were asked to leave the Boswell gin, I will ask you whether or not you went out to the Salyer ranch in the morning. A. No, I did not. [1625]

(Testimony of George Henry Cutter.)

Q. Did you join a gathering of men at the Boswell gin?

Mr. Clark: Will you please fix the time?

Q. (By Mr. Walsh) On the morning of January 30th, 1939?

A. Well, can I answer that in a little different way?

Q. Certainly.

A. One of the boys from the plant came to the office and said there was quite a crowd gathered down there, and not knowing what it was all about, I got in my car and drove down to the plant.

Q. That is, when you say "came to the plant," I take it you mean your plant?

A. No, down to the Boswell plant.

Q. Down to the Boswell plant?

A. That is right.

Q. And where did he give you this information?

A. At my office.

Q. At your office? A. Yes.

Q. Then you proceeded in your car down to the Boswell plant? A. That is right.

Q. Now, will you describe in your own words just what took place there?

Mr. Clark: Now, Mr. Examiner, may I have it cleared up as to who this was that gave Mr. Cutter the first information?

Mr. Walsh: Yes. [1626]

Mr. Clark: I think he used the word "plant" at the outset. I would like to know what that refers to.

(Testimony of George Henry Cutter.)

The Witness: My warehouse foreman came to the office. He was at the back of our plant and happened to notice the cars crossing the track. In fact, I thought there were a lot of Union men descending on Boswell—that is the report I first had.

Mr. Walsh: Yes.

Mr. Clark: At the outset of your answer, you said one of the boys from the plant came to your office.

The Witness: One of the boys from the plant, from my plant; my own foreman.

Mr. Clark: What is the name of your plant?

The Witness: Cutter Grain and Mill Company.

Q. (By Mr. Walsh) Now, will you tell us just what happened after you got down to the Boswell plant?

A. I got out of my car and saw a different picture than I thought I would find there. I just saw a bunch of men just talking to some men in a car. I looked around, maybe was there about three minutes, and having some work to do, I went back to the office again. [1627]

Q. Did you hear what the men were saying to the men that were in the car?

A. No, I didn't. I wasn't that close.

Q. Did you recognize any of the men that you saw there? A. I can't say I did.

Q. Did—do you remember the names of anyone you saw there?

(Testimony of George Henry Cutter.)

A. Well, I wouldn't want to say. I can't recall any special names. I just——

Q. (Interrupting): Did you see Forrest Riley there? A. I don't believe so.

Q. Did you see Lloyd Liggett there?

A. I can't say I recall seeing him there. You see, it is some time ago. I see these men practically every day. I wouldn't recall. I didn't go down for that purpose of seeing who was there, and being so short a time there I naturally didn't look around to see who was there.

Q. Did you see Mr. Salyer, Mr. E. C. Salyer?

A. I wouldn't recall.

Q. Did you see Ralph Marshall there?

A. I don't recall.

Q. Did you see anyone there that you did not know, any strangers?

A. Well, there were a few, yes. I do not know who they were. [1628]

Q. What leads you to believe or what makes you recollect now that they were strangers?

A. I just didn't recognize them.

Q. You didn't recognize them?

A. Yes, I asked some party what it was all about, and I did not recognize that party.

Mr. Clark: May I have that last, please?

Trial Examiner Lindsay: Yes.

Mr. Clark: "Party," was that the word he used?

The Witness: Yes.

(Testimony of George Henry Cutter.)

Mr. Clark: May I have that answer read?

Trial Examiner Lindsay: Yes. Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh) Mr. Cutter, I am going to read you a list of names and in each case I would like to have you tell me whether or not you saw these individuals at the Boswell plant on the morning of January 30, 1939.

Mr. Clark: Or, I take it, whether he is acquainted with them as you read them.

Q. (By Mr. Walsh) If you don't know, just tell me.

G. F. Archer?

A. I don't recall seeing him there.

Q. Do you know Mr. Archer?

A. Yes, I know Mr. Archer. [1629]

Q. Roland Bailey?

A. I don't know Mr. Bailey.

Roland Bailey?

Q. Yes. A. I don't know Mr. Bailey.

Q. You are George Cutter? A. Yes.

Mr. Clark: The answer is what?

The Witness: I do not know Mr. Bailey.

Q. (By Mr. Walsh) Do you know any other man by the name of Bailey who is a farmer here?

A. Mose Bailey.

Q. Mose Bailey. Was he here that morning?

A. I don't recall seeing him. [1630]

(Testimony of George Henry Cutter.)

Q. Roy Filcher?

A. I don't recall seeing him.

Q. Ralph Gilkey? A. I don't recall.

Q. Raymond Gilkey? A. No.

Mr. Clark: Just a moment. I don't think that the answer is getting in the record, Mr. Examiner.

The Witness: I said no.

Trial Examiner Lindsay: If it isn't, the reporter will stop him; but talk up louder.

Q. (By Mr. Walsh) Walter Grisham?

A. No.

Q. Louie Hanson? A. No.

Q. Phil Hanson? A. No.

Q. Clifford Hammond? A. No.

Q. J. W. Hubbard? A. No.

Q. Slim Jones? A. No.

Q. Lloyd Liggett? A. No. [1631]

Q. Joe Mackey? A. No.

Q. Ralph Marshall? A. No.

Q. Forrest Riley? A. No.

Q. E. C. Salyer? A. No.

Q. Garland Salyer? A. No.

Q. Glen Segó? A. No.

Q. He is sometimes known as "Doc", isn't he?

A. Pardon me?

Q. Glen Segó is sometimes known as "Doc" Segó, isn't he?

A. I don't know what his nickname is.

Q. Ronald Squire? A. No.

Q. William Turner? A. No.

(Testimony of George Henry Cutter.)

Q. Robert Wilbur? A. No.

Q. Brice Sherman? A. No.

Q. Russel Slaybough? [1632] A. No.

Q. W. L. Haag? A. From Hanford?

Q. Yes. A. I don't know.

Q. E. J. Harp? A. No.

Q. Hugo Buckner? A. No.

Q. Steve Giacomazzi? A. No.

Q. Everett Howes? A. No.

Q. George A. Smith? A. No.

Q. Charles Kimble? A. No.

Q. E. A. Montgomery? A. No.

Q. Ed Orchard? A. No.

Q. L. D. Fanner?

A. No, I don't know that party.

Q. G. F. Evans?

A. I don't know Mr. Evans. [1633]

Q. Ralph Morgan?

A. I don't know Mr. Morgan.

Q. John Dawson?

A. I don't know Mr. Dawson.

Q. Now, other than this person whom you asked what was going on, did you talk to anybody at the plant? A. No.

Q. Now, directing your attention to the evening of January 30th, 1939, did you attend the barbecue at the Salyer ranch? A. I did.

Q. About how many people were there?

A. Well, the tent was full. It was quite a large gathering. I would say, just guessing at it, about five hundred. I do not know. I am just guessing.

(Testimony of George Henry Cutter.)

I am not much of a guesser at crowds, though. It is just a wild guess.

Q. What would you estimate the size of the crowd to be at the Boswell plant on that morning?

A. Well, it is pretty hard for me to guess a crowd like that. It would only be my personal opinion, if you want that.

Q. I would like to have it.

A. I suppose a couple of hundred.

Q. Now, for what purpose was that barbecue held on the night of the 30th, if you know?

Mr. Clark: I object to that on the ground it calls for a conclusion of this witness. He can state, I should think, what [1634] his purpose was in going, but so far as the purpose of holding the barbecue, there is no information shown to be in the possession of this witness concerning that matter.

Trial Examiner Lindsay: He may answer.

The Witness: Well, I don't really know what the purpose was.

Q. (By Mr. Walsh) Did you hear anyone state what the purpose was? A. No, I did not.

Q. Who seemed to be in charge of the affair?

Mr. Clark: I object to that on the ground it calls for a conclusion of this witness as to who seemed to be in charge of it.

Mr. Walsh: I withdraw it.

Q. Who appeared to be in charge of the barbecue, Mr. Cutter?

(Testimony of George Henry Cutter.)

Mr. Clark: The same objection. It calls for a conclusion of this witness.

Trial Examiner Lindsay: He may answer if he knows.

The Witness: There was nobody apparently in charge that I could see down there.

Q. (By Mr. Walsh) Was there a speaker?

A. There was nobody there receiving us, or I didn't see anybody that was on any reception committee, if that is what you mean.

Q. Yes. [1635]

I just wanted to know who seemed to be directing the activities.

How did you know that a barbecue was to be held?

A. Well, now, I couldn't even answer that question. We were advised by some source, maybe it might have been phoned, or by a personal call of some kind.

Q. Did you buy a ticket or anything?

A. No.

Q. The barbecue was free, at no expense to you, at least? A. That is right.

Q. How long did you remain there?

A. Well, I would say for about two hours, or about two and a half hours. I do not recall exactly the length of time. [1636]

Q. Do you recall about what time in the evening you arrived there? A. No, I don't.

Q. Do you recall about what time you left?

(Testimony of George Henry Cutter.)

A. I couldn't tell that either.

Q. Did you take anybody with you to the barbecue?
A. Yes.

Q. Who did you take?

A. I took Mrs. Cutter and my daughter, Mary Jane.

Q. Were there generally—

Mr. Clark (Interrupting): Who else?

The Witness: My daughter, Mary Jane.

Q. (By Mr. Walsh) Were there generally ladies accompanying the gentlemen at the barbecues?

A. Yes. There was quite a number of ladies there.

Q. When did you learn there was to be a barbecue held, Mr. Cutter?

A. I don't recall that, either.

Q. Now, Mr. Cutter, I believe that you stated in substance that you thought—strike that.

I believe that you stated that on the morning of January 30th when your foreman came and told you that there was a crowd gathered around the plant, that you thought there was a bunch of union men descending upon Boswell's, and that when you arrived there that you found the situation was considerably different. [1637]

Do you recall how you found out that the situation was different than you had thought?

A. Well, I just saw one car there and it was a peaceful situation as far as I could see. There wasn't

(Testimony of George Henry Cutter.)

—we thought—I thought that possibly from the story which first came to me that there was going to be some real action down there. That is why I went down there to see what it was all about. I found a peaceful situation down there and it was entirely different from what I expected.

Q. You had expected to find union men about to—or strangers, men of the union, about to participate in a riot?

A. I didn't know. That is when the boy came in, that there was a bunch of boys crossing the track, I think a bunch of union men descending on Boswell's. That was the report. I didn't know what to expect down. I didn't necessarily think they were union men myself. That was the report that came to me.

Q. Now, did you go alone?

A. I went down with my foreman. He was with me.

Q. And what is his name?

A. George Huston.

Q. Did he circulate among the crowd as well as yourself? A. He was with me, yes.

Q. Now, how did you know that this was a peaceful situa- [1638] tion?

A. Well, I didn't hear much loud talking; seemed to be just more or less sort of—glanced over the car and I saw some men talking to the boys in the car, but there was nothing of any riotous nature.

(Testimony of George Henry Cutter.)

Q. Were you and your foreman armed?

A. No.

Q. Didn't you anticipate that it might be a dangerous situation into which you were getting?

A. I wasn't going to get very——

Mr. Clark (Interrupting): I object on the ground it is incompetent, irrelevant and immaterial; speculative, improper direct examination, and argumentative.

Trial Examiner Lindsay: He may answer. [1639]

The Witness: I did not intend to get very close for it to be very dangerous. I was going to see it from a distance.

Q. Now, had you heard any rumors that there was going to be such a meeting?

Mr. Clark: Objected to upon the ground it is hearsay, not binding on any of the Respondents in this case.

Trial Examiner Lindsay: He may answer.

The Witness: Absolutely no. It was all a surprise to me.

Q. (By Mr. Walsh) Isn't it a fact that there had been talk going around for a week preceding that day, that this meeting was going to take place?

Mr. Clark: Objected to upon the ground it is hearsay, and also the question has been asked and answered; also argumentative.

Trial Examiner Lindsay: He may answer.

The Witness: Well, I had heard no such talk as that.

(Testimony of George Henry Cutter.)

Q. (By Mr. Walsh) You had been in town that week, had you not, the week immediately preceding the 30th of January?

A. That is right, but my work holds me pretty close to my office. I wasn't over town—in fact, I am over town very little—I was over town very little at that time of the season.

Q. Now, did you have any lengthy conversation with this man that you asked what was going on, when you got there? [1640]

A. No.

Q. Do you recall what he told you? Do you recall the words you used and the words he used?

A. No, I don't.

Mr. Clark: I will ask the Examiner to instruct the witness that he needn't recall the specific words of any such conversation, but just the substance.

Trial Examiner Lindsay: I think the witness understands.

Q. (By Mr. Walsh) Now, did you recognize any of the people who were talking with the pickets at the car?

Mr. Clark: I object to that upon the ground it has been asked and answered several times, even specifically, the names having been gone through.

Trial Examiner Lindsay: He may answer.

The Witness: No.

Mr. Walsh: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Cutter, I understand that the first you heard of any gathering at the Bos-

(Testimony of George Henry Cutter.)

well plant on the morning of January 30th, 1939, or whenever that occurred, was when one of your own employees from your plant came to you and told you that such was happening; is that right?

A. That is correct.

Q. And the same manner you have testified to in your direct examination? [1461]

A. That is correct.

Q. Now, when you got down there, how close did you get to the crowd?

A. Well, I was on the outside of the gathering there. I would say roughly about sixty feet or so.

Q. I see.

A. I am just guessing now, a guess.

Q. And do you think you were at least sixty feet from the car at which people were talking to someone?

A. Correct.

Q. I see.

And that you were on the outside of whatever crowd was gathered there?

A. That is right.

Q. In other words, you didn't intend to take a part in whatever was happening there, is that right?

A. That is quite correct.

Q. You went down merely to see what was happening?

A. Yes.

Q. Out of curiosity?

A. Correct.

Q. In your direct examination, you told Mr. Walsh, in response to his questions concerning how you were notified of the barbecue at the Salyer ranch, on the night of January 30th, that "We

(Testimony of George Henry Cutter.)

were advised," or—and you used the word "us." Do [1642] you remember that?

A. It might be a matter of habit with me.

Q. Well, will you please tell us what you meant by using the word "we" or the word "us" in that regard?

A. Well, I should have said "I was." It is merely a term with me in business. I always say "we" as a business term. Possibly I should have said "I."

Q. I see.

You did not mean to include anyone other than yourself or your family by the use of that term, is that true? A. That is right.

Mr. Clark: That is all.

I might ask you one further question just to be sure about it.

Q. Will you please state, Mr. Cutter, whether your going to the Boswell plant on the morning of January 30th, 1939 in the manner you have described in your direct examination was pursuant to any direction, suggestion, invitation or authority whatsoever to you from the Associated Farmers of Kings County? A. I—

Mr. Walsh (Interrupting): I object. I move that the answer be stricken for the purpose of interposing an objection.

Trial Examiner Lindsay: Sustained. The answer may be stricken.

Mr. Clark: That is all. [1643]

(Testimony of George Henry Cutter.)

Redirect Examination

Q. (By Mr. Walsh) Have you discussed the testimony you were about to give here with anyone, prior to testifying? A. No.

Q. Did you talk with Forrest Riley yesterday? A. No.

Q. E. C. Salyer? A. No.

Q. Lloyd Liggett? A. No.

Q. Had you heard that they had testified here? A. Pardon?

Q. Had you heard they had testified here?

A. Well, I heard some report they were going to testify.

Q. Did you hear any report that they did testify? A. Well, I may have.

Q. Who brought you the report?

A. Why, Mrs. Cutter has been at the meetings, and she may have mentioned it during a conversation. I don't recall.

Q. I presume you discussed it last evening when she returned? A. Possibly so, yes.

Q. Did she tell you the manner in which the gentlemen testified yesterday?

A. No. She may have mentioned it.

Q. Did she? [1644]

A. I guess she did.

Q. Do you know the substance of their testimony.

A. No, I don't know all of it; no.

Mr. Walsh: That is all.

(Testimony of George Henry Cutter.)

Recross Examination

Q. (By Mr. Clark) Mr. Cutter, Mr. Walsh's question calls for this: Did you discuss last night with Mrs. Cutter the testimony that the gentlemen named by Mr. Walsh gave here yesterday afternoon?

A. We didn't discuss it, no. She may have told me just what happened here. As far as a discussion was concerned, there was no discussion.

Q. Well, did you pay any particular attention to it? A. Well, I guess I listened.

Q. I see.

When was the first time that you met me?

A. I met you—let us see—I believe about three days ago, wasn't it, Mr. Wingrove?

Mr. Wingrove: I believe it was.

Q. (By Mr. Clark) At that time, was there any mention at all about this case? A. No.

Q. Did you have some conversation with me about two minutes before you went on the stand this morning? A. I did. [1645]

Q. And did I ask you on that occasion whether the Associated Farmers had anything to do with your going down to the plant? A. You did.

Q. And what was your answer to that?

A. No.

Q. And was that the extent of our conversation? A. Correct.

Mr. Clark: That is all.

Mr. Walsh: That is all. [1646]

(Testimony of George Henry Cutter.)

Trial Examiner Lindsay: I just have one or two questions.

Q. Do I understand you to mean, in answer to Mr. Clark's questions, that you were 60 feet away from the crowd?

A. That is an estimated figure now.

Q. Is that the closest you ever got into the crowd?

A. That is right, yes, as I recall.

Q. What did you do, holler over to this fellow you asked?

A. No, I didn't holler. He was standing next to me.

Q. So that he was not with the crowd, is that right?

A. That is right. We were on the outskirts of the crowd.

Q. Did he come over out of the crowd to you?

A. No. I happened to be standing alongside of him.

Q. So you would say he was 60 feet away from the crowd too, is that right? A. That is right.

Q. You don't recall who that was?

A. No, I don't.

Trial Examiner Lindsay: That is all.

Mr. Clark: I understand, Mr. Cutter, that this man you talked to was a stranger to you?

The Witness: That is right.

Mr. Clark: No further questions from us.

Mr. Walsh: That is all.

RUSSEL CHARLES SLAYBOUGH

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Will you state your full name, please? A. Russel Charles Slaybough.

Q. Where do you live?

A. I live in Corcoran.

Q. What is your business or occupation?

A. Ranching.

Q. How large a ranch do you have?

A. Not very big.

Q. How many acres? A. Oh, some 300.

Q. What do you raise on it?

A. A little alfalfa, a little barley, a little cotton, a few weeds.

Q. Are you a member of the Associated Farmers? A. I certainly am.

Q. Directing your attention to January 30, 1939, which has been identified as the day upon which the pickets were asked to leave the Boswell gin, I will ask you whether or not you went to the Salyer ranch on that morning? [1650]

A. I did not.

Q. Did you go to the Boswell gin on that morning? A. No.

Q. Were you at the Boswell gin at all that day?

A. No.

Q. Did you in any way participate in asking the pickets to leave the Boswell gin?

(Testimony of Russel Charles Slaybough.)

A. I did not.

Q. Did you have any knowledge that a meeting was to be held for the purpose of asking the pickets to leave?

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial. The witness has said he wasn't there, he took no part in it and, therefore, this testimony is immaterial.

Trial Examiner Lindsay: He may answer that question.

The Witness: May I have the question?

Trial Examiner Lindsay: Yes, read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: Was to be held or had been held?

Trial Examiner Lindsay: Was to be held.

The Witness: No, I did not.

Q. (By Mr. Walsh) I will ask you whether or not—I will ask you again whether or not you were at the Boswell mill at the time the pickets were asked to leave? [1651]

A. And again I will answer no.

Q. All right. Fine.

Where were you on that day?

Trial Examiner Lindsay: Just a moment, Mr. Witness. You just answer the questions and we will get along very nicely.

The Witness: Thank you, sir.

Q. (By Mr. Walsh) Where were you on that day, Mr. Slaybough?

(Testimony of Russel Charles Slaybough.)

A. Well, sir, I was out of town.

Q. Can you tell me where you were?

A. Yes. I don't think I have any reason not to. I was looking at a potential jumper that morning.

Mr. Clark: Potential what?

The Witness: Jumper.

Mr. Clark: Jumping horse, is that right?

The Witness: An animal of the equine variety used for jumping purposes.

Mr. Clark: Very well. I stand admonished.

Q. (By Mr. Walsh) And where was this, Mr. Slaybough? A. Where was what?

Q. Where was it that you were looking over this horse? A. Where did I go to see the horse?

Q. Yes.

A. I went to a place known as the Hyman ranch over south [1652] and west of Lemoore.

Q. Yes.

Did you remain over there all day?

A. I did not.

Q. What time did you return to Corcoran?

A. Well, it was after lunch. I had my lunch in Peden's in Hanford.

Q. I didn't get that answer.

A. It was after lunch. I had my lunch in Hanford at the Peden's Cafe.

Q. Did you attend a barbecue on the night of the 30th at the Salyer ranch?

A. That I don't know. I wouldn't have intentionally missed any of them, but there were several and I don't know.

(Testimony of Russel Charles Slaybough.)

Q. Do you have any recollection of being there?

A. I was there at several, but I don't remember whether it was that particular one that I attended or missed.

Q. Was the barbecue that you attended held in a tent? A. Yes.

Q. Did you have speakers there?

A. I think there were speakers there.

Q. Do you recall how many people attended?

A. No, I don't.

Q. Can you fix—do you have any way of fixing the date?

A. Nothing other than my personal assumption. [1653]

Q. With whom did you talk at the Hyman ranch about the horse, Mr. Slaybough?

A. Well, sir, I talked to a man that I met at Guernsey at 9:00 o'clock that morning. I talked to him at the Hyman ranch about the horse.

Q. Would you give us his name, please?

A. His name was George Bell. I talked to a man named Mr. Craig at the Hyman ranch who is one of the owners of the ranch and the horse. I talked to a Mr. Patton who was manager of the Hyman ranch about the horse, and as we were looking at him, I talked to a man known as Segundo who rides for the Hyman ranch. I talked to everybody that was there about the horse. And a man that came in from the field—in fact, I rode the horse, and I saw the horse work and when horse people get talking,

(Testimony of Russel Charles Slaybough.)

they usually enjoy themselves thoroughly and they are in no hurry about departing.

Q. Did you buy the horse on that day?

A. Did I what?

Q. Did you buy the horse?

A. No, I didn't.

Q. How do you fix that day that you looked at the horse as January 30th, 1939?

A. Or, in other words, the day of the rumpus down here?

Q. Yes.

A. As I sat out on the curb at Guernsey talking to Mr. Bell [1654] about that horse and other horses, horses in general, a car drove up and asked me if I had been down to Boswell's that morning, that they had a gathering down there. And I said, "No." I said, "What was it?"

He said he didn't know, he heard there was a bunch in town there which definitely at that time impressed it upon my mind; and then, of course, since then I have heard a great deal about it, especially in the last week or two.

Q. Do you recall what time you were talking to the man in Guernsey? I believe that was Mr. Bell, wasn't it?

A. Yes, sir.

Q. Can you fix the time? A. Yes.

Q. Will you do that for me, please?

A. After lunch. After I had lunch in Hanford and driven down there to where his car was left.

Q. Yes.

(Testimony of Russel Charles Slaybough.)

Now, who was it that drove up and told you about the gathering at the Boswell plant?

A. He told me he heard there was something there, as I remember it.

Mr. Clark: Mr. Examiner, may I have the witness indicate who this is that told him about the gathering there? Do I understand that is Mr. Bell?

Trial Examiner Lindsay: No. Wait a minute. [1655]

The Witness: I——

Trial Examiner Lindsay (Interrupting): Just a minute, both of you. Just a moment, Mr. Witness. That is what the attorney is trying to have answered now, Mr. Clark.

Mr. Clark: I didn't understand that.

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: A man named Sherman. [1656]

Q. (By Mr. Walsh): Brice Sherman?

A. Right.

Q. What? A. Right.

Q. Wright Sherman?

A. No, you are right, correct.

Q. I am sorry.

Did this man say that he had been there?

A. No, he didn't. As I gathered from what he said, he hadn't been there. He wanted to find out; I suppose he had heard from some place up in there that there was something down here, and as I re-

(Testimony of Russel Charles Slaybough.)

member it, he didn't know any more about it than I did.

Q. Well, of course, you didn't know anything about it up until that time, did you?

A. That is right. I was quite anxious to find out myself.

Q. Mr. Slaybough, did we fix the time at which you arrived at the Hyman ranch?

A. No, we did not. I imagine that would be more or less difficult. I—the previous week I had made an appointment with Mr. Bell to meet him at Guernsey at 9:00 o'clock as I remember, and it would take some half or three-quarters or even possibly more than three-quarters of an hour to drive to the Hyman ranch.

Q. Did you pick Mr. Bell up at Guernsey and carry him over [1657] to the Hyman ranch?

A. That is right. I picked him up. He locked his car and left it sitting at Guernsey corner and drove over.

Q. When you had returned from Hanford—or the Hyman ranch and had lunch at Hanford and were back at Guesnsey with Mr. Bell was when you met Brice Sherman, is that correct?

A. That is right.

Q. Had you heard anything about any rumors running around town prior to January 30th that such a meeting was going to take place?

A. No, I hadn't. I am afraid my horse deal would have to wait if I had.

(Testimony of Russel Charles Slaybough.)

Q. You would have liked to have helped?

A. I would have liked to have been present.

Mr. Walsh: You may inquire.

Mr. Clark: No question.

Mr. Walsh: That is all.

Trial Examiner Lindsay: You may step down.

(Witness excused.)

Mr. Mouritsen: Call Elgin Ely.

Mr. Clark: Well, this witness has testified once, Mr. Examiner.

Mr. Mouritsen: This is on the Associated Farmers part [1658] of the case.

Mr. Clark: Well, I understood that before witnesses were recalled some showing of some indication would have to be made with respect to the purpose of recalling them.

Trial Examiner Lindsay: As I understand the situation—off the record, first.

Mr. Clark: I would like to have it on the record.

Trial Examiner Lindsay: I said off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: In the record.

Mr. Clark: I will simply ask, Mr. Examiner, that counsel for the Board state the purpose for recalling this witness at this time and make some showing as to the basis for permission to have him called.

Mr. Mouritsen: Well, Mr. Examiner, at the outset of the Board's case, I outlined the method of

procedure that the Board proposed to follow, namely, that as far as humanly possible we would present the information, the evidence that has been gathered, against the J. G. Boswell Company and then in turn against the Associated Farmers and then against the Corcoran Telephone Exchange, in order that the record might be more easily reviewed by the Board and by any court to which it is taken.

I recall at the time when Martin was on the stand that I stated specifically that he would be called later. I didn't [1659] anticipate that there would be any difficulty with respect to Mr. Ely and Mr. Johnston, whom I propose to recall in regard to the Associated Farmers part of the case, or I should certainly have made some statement at that time.

Mr. Clark: As a matter of fact, you didn't make any such reservation, did you, with respect to this witness?

Mr. Mouritsen: I don't recall making it. I didn't think it was necessary in view of the statement I outlined as to how I proposed to present the case.

Trial Examiner Lindsay: Well, my understanding was that that was the procedure to be followed, and it will be followed.

ELGIN ELY,

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

(Testimony of Elgin Ely.)

Direct Examination

Q. (By Mr. Mouritsen) Now, Mr. Ely, you have already been sworn, is that correct?

A. Yes.

Trial Examiner Lindsay: Your first name was what?

The Witness: L. E. [1660]

Q. (By Mr. Mouritsen) Now, directing your attention, Mr. Ely, to the morning of January 30th, 1939, which has been identified as the morning upon which certain pickets were requested to leave the vicinity of the J. G. Boswell plant in Corcoran, I will ask you if you were present at the Boswell plant on that morning? A. I was.

Mr. Clark: May I have the answer?

The Witness: I was.

Q. (By Mr. Mouritsen) Was anyone else—strike that.

At what time did you first go to the Boswell plant on that morning, which is on or about January 30th, 1939?

A. Either at 7:00 or 8:00 o'clock.

Q. And how did you proceed to the plant on that occasion?

A. In my automobile.

Q. Did anyone accompany you?

A. Yes.

Q. What did you do when you first went to the plant on that morning.

(Testimony of Elgin Ely.)

A. Stopped my car and got out and put the picket sign on.

Q. And who was present with you at that time?

A. Steve Griffin.

Q. After you put up the picket sign, what did you do after that time?

A. Got back in the car. [1661]

Q. And about how long—strike that.

Did you remain sitting in the car for some time?

A. Yes.

Q. Approximately how long did you remain there?

A. Until about possibly five or ten minutes past ten o'clock.

Q. At that time did any other people come to the car where you were sitting?

A. Yes.

Q. Will you state what occurred on or about that time when these other people came to the car in which you were sitting?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial, not binding upon any of the respondents in this proceeding, no connection whatsoever show between such other people at this gathering and any of the Respondents, no authority from any Respondents to anyone appearing at this gathering, and also calling for hearsay.

Trial Examiner Lindsay: He may answer.

The Witness: Well, it was about fifteen minutes to 10:00 when there was a car turned around in

(Testimony of Elgin Ely.)

front of my car and parked directly in front of it, another car parked behind it, and by the time I looked around there were cars everywhere up and down the road; and they started to crowd around my car.

Q. (By Mr. Mouritsen) Did you see anyone get out of the car that stopped in front of your car?
A. I did. [1662]

Q. Whom did you see get out?

A. Lloyd Liggett.

Q. What did Mr. Lloyd Liggett do at that time?

Mr. Clark: Same objection, Mr. Examiner. May it be stipulated, Mr. Walsh, that my objections may run to this entire line of testimony?

Mr. Walsh: Yes, it may.

Trial Examiner Lindsay: He may answer.

The Witness: He opened the door on the right side of my car.

Q. (By Mr. Mouritsen) Did he say anything to you at that time?

A. He spoke to us and we spoke to him.

Q. Now, other than Mr. Liggett, did any other people gather around the car?

A. Yes.

Q. Approximately how many?

A. Mr. Liggett told us there was between two and three hundred of them.

Q. Did you recognize any of these other people who gathered around your car at that time?

A. I did.

Q. Will you name as many of those people as you can recall?

(Testimony of Elgin Ely.)

A. Mr. Liggett, Mr. Salyer, Slim Jones, Ralph Marshall, Mr. Riley. There were lots of others right near the car. I [1663] know their faces, but didn't know their names.

Q. Now, I believe you stated that Mr. Liggett said something at that time. Is that correct?

A. Yes.

Q. Will you state what Mr. Lloyd Liggett said, and what, if anything, you or Steve Griffin said?

Mr. Clark: Subject to the same objection, Mr. Examiner.

The Witness: He said, "Steve, what have we got here anyway? You should be ashamed of yourself. Look how good Boswell's have been to you and to all of us."

He said, "We have put up with this picketing long enough. You are going to have to leave."

Q. (By Mr. Mouritsen) At that time did Mr. Griffin say anything about violating the law?

A. He did.

Q. Will you state what Mr. Griffin said about violating the law?

A. He said, "Well, if we are violating the law, why don't you get the law down here?"

Q. Did Mr. Liggett say anything at that time?

A. Yes.

Q. What did he say?

A. He said, "No, you are not violating the law. You are law-abiding citizens and we are not going to monkey with the law."

(Testimony of Elgin Ely.)

Q. Was anything said — was anything further said at that [1664] time that you recall?

A. He again insisted upon us getting out of there.

Q. Well, what did he say?

Mr. Clark: I move that go out, "he again insisted."

Trial Examiner Lindsay: Yes.

Mr. Clark: Let us have what was said, if anything, subject to the same objection.

The Witness: He said, "Now, move on out of here and get to going. We don't want you here any longer."

He said, "There is two—over two hundred of us here, and we represent twelve hundred more in this valley."

Q. (By Mr. Mouritsen) Do you recall anything further that was said at that time?

A. Yes.

Q. What else was said?

A. E. C. Salyer said, "Lloyd, move your car."

Mr. Clark: What was that last?

The Witness: He said, "Lloyd, move your car."

Q. (By Mr. Mouritsen) And what next occurred, if anything?

A. He moved his car. Then Mr. Liggett moved his car, and then Mr. E. C. Salyer said, "Now, get the hell out of here and get going. Don't stop in town."

Q. Now, at or about that time did you see any Union members, any other Union members in the crowd?

A. I did.

(Testimony of Elgin Ely.)

Q. Will you state what you saw and observed with reference to [1665] the other Union members at that time?

Mr. Clark: Same objection, of course.

Trial Examiner Lindsay: Same ruling.

The Witness: R. K. Martin, W. R. Johnston and Gene Ely, they drove up as close as they could to my car and someone in the crowd said, "Is that some more of them?"

Q. (By Mr. Mouritsen) Did you recognize who made that statement?

A. No, I couldn't. Martin said, "Yes, this is some more of them."

That is about all I heard from them because the crowd formed around his car the same as it was mine.

Q. Now, what did you do next?

A. Well, the general cry of the crowd was to open that other door up over there and pull them out; what are we waiting for, anyway. [1666]

Q. Did you recognize any of the individuals who said "Open up the door and pull them out"?

A. No.

Mr. Clark: This, of course, is all understood to be subject to my general objection?

Trial Examiner Lindsay: Yes. I think we have agreed on that.

Mr. Clark: All right, just so long as it is understood.

Q. (By Mr. Mouritsen): Did you recognize any of the individuals who said, "What are we waiting for"?

(Testimony of Elgin Ely.)

A. No. There were too many of them talking.

Q. After you heard those statements, what next occurred?

A. There was some party tried to open my door but he didn't succeed, and he said, "It is locked."

Q. Did you recognize the party who did that?

A. I didn't know his name.

Q. Well, had you seen him about in Corcoran before? A. Yes.

Q. And would you recognize him if you saw him again? A. I would.

Q. Will you continue and tell us what next occurred after that?

A. Mr. Liggett had backed his car up and Mr. Salyer told us to get the hell out of there and get going.

I said, "My starter won't work. My car will have to [1667] be pushed before it will start."

Someone said, "Get out and push it."

I said, "No, I don't want to leave that bad."

Mr. Salyer said, "We will push your car for you," and they proceeded to do so and pushed it out in the street; wasn't nothing we could do but start it.

Q. Did you start it? A. I did.

Q. Then what did you do?

A. I went up past the office and turned around and came back through the crowd and stopped again.

Q. Was anything further said at that time?

(Testimony of Elgin Ely.)

A. Yes.

Q. Will you state what was said and by whom it was said?

A. I rolled the window down in my car and spoke to Mr. Ralph Marshall. I said, "Are you satisfied now that we are leaving?"

He said, "Yes. Where are you from, anyway?"

I said, "I am from California."

He then said, "I didn't think we had people like you in California. Why don't you go back to Oklahoma and take one of their places and let him come down. They will work."

Q. Was anything further said at that time?

A. Yes. He said, Mr. Marshall said, "Well, get on out of here. Leave town. Go all the way to Mexico. That is where [1668] you belong."

Mr. Clark: To where?

The Witness: Mexico.

Mr. Clark: Mexico?

The Witness: Mexico.

Mr. Mouritsen: Mr. Examiner, I am constantly hampered in the examination of my witnesses by remarks from Mr. Clark by breaking in and by interrupting. I submit, Mr. Examiner, that he is continually out of order in that regard.

Mr. Clark: Mr. Examiner, I simply cannot hear the witness. If you were sitting down here where I am you would see it is extremely difficult to hear, and I do want to get the answers as they are given.

Trial Examiner Lindsay: Yes.

(Testimony of Elgin Ely.)

Mr. Clark: I don't mean to interrupt or to hamper Mr. Mouritsen in the least.

Trial Examiner Lindsay: Let us try to get along peacefully. Don't interrupt any more than you have to.

Mr. Clark: I certainly won't.

Mr. Mouritsen: Very well.

Q. Now, after Mr. Ralph Marshall made this statement about going to Mexico, what next occurred?

A. Well, the crowd in general started to holler and shout, "Pull them out of there." And "Turn their car over." [1669] "We have waited long enough."

Q. And did you recognize any of the individuals who made those statements? A. No.

Q. After you heard those statements, what next occurred? A. Then I left.

Q. Well, how did you leave?

A. Left the plant.

Q. How did you leave? A. In my car.

Q. And did Mr. Griffin accompany you?

A. He did.

Q. Where did you go after you left the plant?

A. To R. K. Martin's house in Corcoran.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Clark): Mr. Ely, you, of course, have been sitting here listening to all of the testimony in this proceeding throughout the entire hearing, haven't you? A. No.

(Testimony of Elgin Ely.)

Mr. Mouritsen: That is objected to.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: Well, the answer may stand.

Mr. Clark: Now, what was the answer?

Trial Examiner Lindsay: "No." [1670]

Q. (By Mr. Clark): Well, you heard Mr. Slaybough and Mr. Cutter testify this morning, didn't you? A. Yes.

Q. And did you hear Mr. Martin testify the other day—Mr. Griffin I mean? A. No.

Q. Weren't you here when Mr. Griffin testified?

A. No.

Q. All right.

Now, did you hear your brother, Gene Ely, testify? A. No.

Q. And how about the three gentlemen yesterday, Messrs. Riley, Liggett and Salyer?

A. I heard two of them.

Q. Which two did you hear?

A. Salyer and Riley.

Q. All right.

Now, do I understand that at some time during this procedure down there at Boswell's on the morning of January 30th your brother Gene Ely came close to the car that you were sitting in?

A. That is right.

Q. Do you remember so testifying?

A. Absolutely.

Q. And who was with Gene Ely—that is—what

(Testimony of Elgin Ely.)

are Gene [1671] Ely's initials? A. E. C.

Q. All right.

Now, who was with E. C. Ely on that occasion?

A. R. K. Martin and W. R. Johnston.

Q. All right.

And I think you said that Mr. Griffin was with you? A. Yes.

Q. Now, at that time did you see—I am talking about the time when Gene Ely was close to your car—did you see Russel Slaybough in the crowd? A. I don't remember.

Q. Do you know who he is? A. I do.

Q. All right.

What is your best recollection on it?

A. I seen him here this morning.

Q. What is your best recollection of whether or not you saw him there at the Boswell plant at the time during the morning of January 30th when your brother, Gene Ely, and these other gentlemen you named came close to your car?

A. Well, they were about 20 feet was as close as they could get to my car and there were about 100 people between their car and mine so I don't know who all was around their car. [1672]

Q. All right.

As a matter of fact, you can't identify more people who were there at that gathering that morning than you have given us on your direct examination, can you?

Mr. Mouritsen: May the witness be instructed as to what his direct examination is?

(Testimony of Elgin Ely.)

Trial Examiner Lindsay: Those particular individuals?

Mr. Clark: Oh, I will withdraw the question.

Q. What is your best recollection as to whether or not you saw Mr. Slaybough there at that time?

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: Well, he may answer again.

The Witness: I don't remember seeing Mr. Slaybough near my car.

Mr. Clark: I see.

Q. Now, was the starter on your car actually broken? A. No.

Q. And then, if I understand you correctly, after they pushed you to get the car started, and you did start up, you drove a few blocks away and came back to see what was going on, is that right?

A. Yes.

Q. All right.

You testified that you told someone there that you were a [1673] native son or a Californian?

A. Yes.

Q. That isn't true, is it? A. No.

Q. What state did you come from?

A. Texas.

Mr. Clark: I see. That is all.

Mr. Mouritsen: Nothing further.

(Witness excused.)

Mr. Clark: May we have a short recess?

Trial Examiner Lindsay: Yes.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Ready.

Mr. Mouritsen: Ready for the Board.

Mr. Martin, will you take the stand, please?

R. K. MARTIN

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

Trial Examiner Lindsay: Has this gentleman been on the stand? [1674]

Mr. Mouritsen: You have been sworn, haven't you?

The Witness: Yes, sir.

Q. (By Mr. Mouritsen): Now, Mr. Martin, I would like to direct your attention to the morning of January 30, 1939, which has been identified as the morning on which certain pickets of the American Federation of Labor were asked to leave the plant of the J. G. Boswell Company here in Corcoran, and I will ask you if on that morning you were at the J. G. Boswell plant at any time?

(Testimony of R. K. Martin.)

A. Yes.

Q. How did you proceed to the Boswell plant on that morning?

A. Well, Mr. Ely came by and told me they was ganging up on the pickets——

Mr. Clark (Interrupting): Just one minute. I didn't expect that question would call for a conversation there.

Mr. Mouritsen: I will establish the conversation.

Q. Did you have on that morning a conversation with Mr. Ely? A. Yes.

Q. Which Ely? A. Eugene Ely.

Q. And where did the conversation take place?

A. At my house.

Q. Was anyone else present other than yourself and Mr. Ely? [1675] A. My wife.

Q. Will you state what Mr. Eugene Ely said to you on that morning and what you said to Mr. Eugene Ely?

Mr. Clark: All right. To which we object, Mr. Examiner, on the ground it is incompetent, irrelevant and immaterial, self-serving and hearsay in that no authority has been shown or any connection shown between any of the persons present at the Boswell plant on this morning of January 30, 1939, and any of the respondents, and I would like a stipulation, Mr. Mouritsen, that that objection may run to all of this witness' testimony—or those objections, rather.

(Testimony of R. K. Martin.)

Mr. Mouritsen: I will so stipulate with the understanding that I will not continually thereafter be interrupted by the same objection.

Mr. Clark: No. In the case of the last witness I used the term "this line of testimony," and so as to make sure as you go into different conversations, I would repeat the same objection, but if I may have the stipulation that those objections which I have just made run to all this witness' testimony, why, you won't hear any more from me.

Mr. Mouritsen: I will so stipulate. [1676]

Trial Examiner Lindsay: And that objection goes to each and every question.

Mr. Clark: Yes, I guess it does. It wouldn't be well taken as to some questions, but I don't care about that.

Mr. Mouritsen: So stipulated.

Trial Examiner Lindsay: And those that it will not be well taken to, of course, puts me in a position of ruling adversely on every question.

Mr. Clark: Suppose I make my objection at the outset of each stage of this witness's testimony, and we will have a stipulation that the objection I have just made will run to this full conversation without my repeating it, and when we get into a new situation or phase, I will repeat it. That is what I have been doing.

Mr. Walsh: Very well. With the understanding that the objection runs to the entire conversation on this occasion with Eugene Ely, I will so stipulate.

(Testimony of R. K. Martin.)

Mr. Clark: That is right. Very well.

Q. (By Mr. Mouritsen) Now, the question was, Mr. Martin, will you state the conversation that took place between you and Eugene Clark Ely on that occasion?

Trial Examiner Lindsay: He may answer.

Mr. Clark: Same objection.

The Witness: He came running in the house and said they was ganging up on the pickets, "You had better go down and [1677] see about it."

He said, "They are liable to kill them."

Q. (By Mr. Mouritsen) Did you say anything at that time?

A. I said, "O. K.," and started down.

Q. And did you proceed to the plant at that time? A. Yes, sir.

Q. And how did you proceed?

A. I got in the car and run down there right quick.

Q. Was anyone else—strike that.

Who, if anyone else, was in the car?

A. Johnston, W. R. Johnston.

Q. And Mr. Ely? A. Yes.

Q. Now, will you state what you observed when you approached the plant of the J. G. Boswell Company? A. (Pause.)

Mr. Clark: I object to that on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: There was a bunch of about two

(Testimony of R. K. Martin.)

or three hundred men bunched up around the picket car.

Q. (By Mr. Mouritsen) And what—strike that.

Did you see a number of cars in that vicinity, also? A. Yes, sir.

Q. And approximately how many? [1678]

A. Well, I would say about fifty.

Q. And where were these cars placed?

A. In at the back of the scales office, on the right hand side of the road.

Q. And were there any of the cars on the left hand side of the road there? A. Yes, sir.

Q. What did you do after you observed this crowd of approximately, I believe you said, two hundred? What did you do after you saw them at the plant?

A. I drove up in the car as close as I could get to the picket car.

Q. Where was this crowd with reference to the picket car?

A. All around it upon all sides.

Q. Now, when you drove up to the crowd and as near to the picket car as you could, did you recognize any of the persons who were present in that crowd?

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial, not binding on any of these Respondents.

Trial Examiner Lindsay: He may answer.

(Testimony of R. K. Martin.)

The Witness: Yes, sir.

Q. (By Mr. Mouritsen) Will you give us the names of as many people as you recognized?

Mr. Clark: May it be stipulated, Mr. Mouritsen, that my [1679] objection runs to this entire line of testimony?

Mr. Mouritsen: So stipulated.

Trial Examiner Lindsay: He may answer.

The Witness: Forrest Riley, Mr. Lloyd Liggett, Mr. Russel Slaybough, Brice Sherman, Walter Grisham, Mr. J. W. Hubbard, Mr. J. T. Archer, Mr. George Cutter, Mr. Willis.

Q. (By Mr. Mouritsen) Do you know his first name or initials? A. No, I don't.

Q. Continue.

A. Mr. Bill Turner and Mr. Clark—

Mr. Clark: Not me?

The Witness: No, sir.

Q. (By Mr. Mouritsen) Do you know his name or initials?

A. No, I don't. He works at the Cousin tractor place in town here.

Mr. Ronald Squire. That is all I can remember, I believe.

Q. Now, have you give us all of the names that you can recall? A. Yes, sir.

Q. I believe you stated that you saw or recognized Brice Sherman; is that correct?

A. Yes.

Q. Mr. Martin, did you make any memoran-

(Testimony of R. K. Martin.)

dum of the names of the men present on that occasion? [1680]

A. I did at one time, yes, sir.

Q. When did you make that memorandum?

A. That same day.

Q. Do you have that memorandum with you?

A. No, sir, I haven't.

Q. Do you know where it is?

A. I think it is at home.

Q. About how long would it take you to get that memorandum?

A. Oh, five or ten minutes.

Q. Do you recall at this time where that memorandum is?

A. No, sir, it is in one of my note books, if it has not been lost.

Mr. Mouritsen: Mr. Examiner, at this time could we take a short recess to enable the witness to obtain that memorandum or at least to make a search for it?

Mr. Clark: Why can't that be done on Monday morning?

Mr. Walsh: All right.

Mr. Clark: It will only take five minutes and he will have plenty of time to look for it.

Trial Examiner Lindsay: You won't object to recalling him Monday morning?

Mr. Clark: No, absolutely not.

Mr. Mouritsen: Very well.

Q. Will you state, Mr. Martin, what occurred,

(Testimony of R. K. Martin.)

if anything, at the time when you drove up into the crowd and stopped? [1681]

A. There was a bunch of about ten or fifteen men swarmed around my car, and Mr. Lloyd Liggett came around on my side and opened the door.

Mr. Clark: Just a minute. I object to all that as not responsive to the question, but I don't care whether it stays in, Mr. Examiner, if it can be deemed I have objected to it on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: All right. Then it may stay in.

Q. (By Mr. Mouritsen) Now, when you state he came around on your side of the car, can you tell us more definitely what side of the car you were on? A. On the left side.

Q. You were—were you driving the car?

A. Yes, sir.

Q. Now, will you continue with the description of what occurred at that time?

A. He just opened the door and I spoke to him and he kind of grinned.

Mr. Clark: I will object to this on the ground that it is incompetent, irrelevant and immaterial, not binding on any of the Respondents to this proceeding, no authority having been shown from any of the Respondents to any of the persons present at this gathering on the morning of January 30th, 1939, to act for them.

And I will ask you whether that objection can

(Testimony of R. K. Martin.)

be stipulated [1682] to run to this entire incident?

Mr. Mouritsen: With the understanding that I am not continually interrupted by further objections.

Mr. Clark: I won't if I get the stipulation.

Mr. Mouritsen: I will stipulate with that understanding.

Trial Examiner Lindsay: You may proceed, and you may answer.

The Witness: He jerked the car open and kind of grinned, and I spoke to him.

Q. (By Mr. Mouritsen) What did you say to him? A. What did I say?

Q. Yes. A. I said, "Hello, Liggett."

A. Did he say anything?

A. He said, "We are not going to have any more of this picketing around here."

Q. Yes.

A. He kind of stepped back. Then Mr. Slaybough, he jerked the door open on the other side, reached out, and opened it and jumped back.

Q. What is Mr. Slaybough's first name?

A. Russel.

Q. Who was sitting on the side of the car on which the door was that he opened?

A. Ely, E. C. Ely. [1683]

Q. Did Mr. Slaybough say anything at that time? A. No, sir.

Q. Now, will you continue——

Do you know Mr. Russel Slaybough?

(Testimony of R. K. Martin.)

A. Yes, sir.

Q. How long have you known him?

A. Five or six years.

Q. Now, will you continue with a description of what further occurred at that time, after Mr. Russel Slaybough opened the door and jumped back?

A. Mr. Brice Sherman, he stuck his head in on the other side of the car where Johnston was seated, and said, "Isn't this a pretty looking thing? It looks like a God damned Christmas tree." And he reached towards the button on the coat.

Q. And what kind of buttons were those?

A. Union buttons. And Mr. Riley says, "Is this some of them?"

And Mr. Sherman said, "I think so."

And Mr. Riley spoke up and he said, "Boys, we are not going to have this God damned A. F. of L. in Coreoran."

Mr. Clark: Who said that?

The Witness: Riley.

Q. (By Mr. Mouritsen) Do you know his first name or initials? A. Forrest.

Q. Now, continue. What next was said and done?

A. Somebody spoke up and says, "You are going to have to get [1684] out of town."

Q. Did you recognize who said that?

A. I think Mr. Salyer was the fellow that said that.

(Testimony of R. K. Martin.)

Q. Yes.

A. And I said, "Who is doing this, anyway?" And Mr. Liggett said, "The Associated Farmers." And about that time Mr. Riley and Mr. Liggett and Mr. Salyer and a fellow by the name of Wilbur said, "We, the Associated Farmers."

They said, "There are 200 of us here."

One fellow said, "Two hundred, and we represent a thousand more."

And somebody spoke up, "There are three hundred here and we represent twelve hundred more."

Mr. Clark: Now, that objection I made is deemed to have gone to this entire incident?

Mr. Walsh: So stipulated.

Mr. Clark: Yes, Mr. Walsh.

Q. (By Mr. Mouritsen) I believe you stated that a Mr. Sayler was one of those who made such a statement; is that correct? A. Yes.

Q. Do you know his name or initials?

A. E. C.

Q. And I believe you stated that a Mr. Wilbur made such a statement; is that correct? [1685]

A. Yes, sir.

Q. Now, after those men made the statement regarding the Associated Farmers, what next occurred?

Mr. Clark: The same objection, your Honor.

Mr. Mouritsen: Yes.

Trial Examiner Lindsay: Same ruling.

The Witness: I said, "O. K. boys, let's go to town."

(Testimony of R. K. Martin.)

Q. (By Mr. Mouritsen) To whom did you say that? Merely to the boys in your car?

A. No, sir; to the ones in the picket car.

Q. And did you see the other boys in the picket car? A. Yes, sir.

Q. Who were in the picket car at that time?

A. Elgin Ely and Steve Griffin. [1686]

Q. Did you observe at that time what the boys in the picket car did?

A. No, sir; I drove on myself.

Mr. Clark: May I have that answer?

Trial Examiner Lindsay: He drove on himself. Is that right?

The Witness: Yes.

Trial Examiner Lindsay: Was that your answer?

The Witness: Yes.

Q. (By Mr. Mouritsen) In other words, after you said, "Let's go," you then left the plant, is that correct? A. Yes.

Q. Where did you go after you left the plant?

A. I went to my home.

Q. I believe you stated that Slim Jones was one of those present. Am I correct in that statement?

A. He was present; yes, sir.

Q. Do you know his name or initials other than Slim? A. No, I don't.

Q. Do you know where he works?

A. He works for Mr. Salyer.

Q. Which Salyer? A. E. C. Salyer.

Q. Now, directing your attention back to the

(Testimony of R. K. Martin.)

time when you were in that crowd on that morning, did you or did you [1687] not observe a number of other men who worked for E. C. Salyer?

A. Yes, sir.

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial, not binding on any of the respondents to this proceeding, no authority having been shown from any of them from Mr. E. C. Salyer to appear himself or have any of his men appear at the Boswell plant on this occasion.

Trial Examiner Lindsay: He may answer.

The Witness: His brother, Mr. Gerald Salyer, and his son, Everett, I believe, is his name, Everett Salyer.

Q. (By Mr. Mouritsen) Do you recall any others at present who worked for E. C. Salyer—I will stipulate the same objection applies.

Mr. Clark: Very well.

Trial Examiner Lindsay: You may answer.

The Witness: No, I can't at this time.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Martin, I believe you said you saw a Mr. Robert Wilbur present in the crowd that morning at the Boswell plant?

A. Yes, sir.

Q. How long have you known Mr. Wilbur? [1688]

(Testimony of R. K. Martin.)

A. Oh, two or three years, I guess, a couple of years.

Q. And have you had any dealings with him yourself or has he just been pointed out to you as being Mr. Wilbur?

A. I haven't had any dealings with him. He worked around the Boswell plant some, I think.

Q. And when? When you were there?

A. I think so.

Q. Have you any positive recollection on that?

A. No, sir, I haven't.

Q. You have not. A. No, sir.

Q. Now, was Mr. Wilbur active in doing whatever was being done down there that morning to you fellows?

A. He was almost as active as the rest of them.

Q. Would you say he was one of the leaders of the group that was down there that morning?

A. I would.

Q. You would? A. Yes, sir.

Q. Now, you also said that Mr. Russel Slaybough was present that morning at the Boswell plant and that he came to the side of your car with Mr. Liggett and made certain remarks, is that true?

A. No. No.

Trial Examiner Lindsay: He didn't say that Slaybough [1689] made any remarks.

Mr. Clark: I think he did, Mr. Examiner.

Trial Examiner Lindsay: The record will show.

Mr. Clark: Very well. I understood that.

(Testimony of R. K. Martin.)

Q. Did you say then—strike that.

Did you tell us on your direct examination that you saw Mr. Russel Slaybough present?

A. I did.

Q. How long have you known Mr. Slaybough?

A. Between five and six years.

Q. And have you had any occasion to identify him or has he just been pointed out to you by someone?

Mr. Mouritsen: I object to that as vague and confusing, has he had any occasion to identify him.

Mr. Clark: I withdraw that.

Q. How did you come to know who Mr. Russel Slaybough is? A. He farmed for Boswell.

Q. He what?

A. He has farmed for the Boswell Company, and ginned cotton, and I had tied up his cotton.

Q. What do you mean, “tied up his cotton”?

Trial Examiner Lindsay: Let him answer.

The Witness: I tied out his cotton and issued bales, and every once in a while for the last five or six years.

Q. (By Mr. Clark) So you are absolutely sure that you [1690] know who Russel Slaybough is, aren't you? A. Yes, sir.

Q. And are you positive, Mr. Martin, that you saw Russel Slaybough there in the crowd at the Boswell plant on the morning of January 30th of this year? A. Yes, sir. [1691]

Q. Are you just as positive of that as you are of any of the other facts you have testified to here?

(Testimony of R. K. Martin.)

A. Yes, sir.

Q. Now, did you say that Mr. Brice Sherman was also in the crowd that morning?

A. He was.

Q. And do I understand that Mr. Brice Sherman came up to the side of your car and opened the car, did something to that effect?

A. No. He stuck his head in the back window.

Q. All right.

Now, are you sure you know who Brice Sherman is? A. Yes, sir.

Q. And for how long have you known him?

A. I would say two or three years.

Q. Are you positive, Mr. Martin, that you saw Mr. Brice Sherman in the crowd that morning?

A. Yes, sir.

Q. And that he came up to the side of your car and stuck his head in it? A. He did.

Q. You are absolutely sure you recognized him?

A. Yes, sir.

Q. You of course realize that you are under oath in this proceeding? [1692] A. I do.

Q. And you understand the nature of an oath, don't you? A. Yes.

Q. Now, will you please tell us whether you are just as sure and just as positive that Mr. Brice Sherman was at the Boswell plant on this morning of January 30th, 1939, as you are of all the other facts you have testified to? A. Yes, sir.

Q. Do I understand that right after this oc-

(Testimony of R. K. Martin.)

currence you made a memorandum of the persons you saw there? A. Yes, sir.

Q. And how long afterwards, please?

A. The same morning.

Q. How long afterwards, please?

A. About thirty minutes after.

Q. Did you collaborate with anybody else in remembering the names of people you saw there?

A. No, sir.

Mr. Mouritsen: Objected to.

Q. (By Mr. Clark) In other words, you sat down by yourself and made this memorandum, is that right? A. I did.

Q. And you think you still have that memorandum? A. I think so.

Q. Can you tell us now whether the name of either Brice Sher- [1693] man or Russel Slaybough appears on that memorandum? A. They do.

Mr. Clark: Very well. That is all.

Mr. Mouritsen: Nothing further, Mr. Examiner.

Mr. Clark: I might ask one other question, Mr. Examiner, with your permission.

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark) In other words, Mr. Martin, you are not any surer of the identify of any of the persons you have testified to as having been at the Boswell plant on this occasion than you are that either Slaybough or Sherman were there?

Mr. Mouritsen: Objected to as already asked and answered in another form.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well. That is all.

(Witness excused.)

Mr. Walsh: If the Examiner please, this is all the witnesses we have to offer this morning.

Trial Examiner Lindsay: In that event, we will adjourn until 10:00 o'clock Monday morning.

Mr. Clark: Very well, your Honor.

(Whereupon, at 9:45 o'clock A. M., June 3, 1939, the hearing was adjourned to 10:00 o'clock A. M., Monday, June 5, 1939.) [1694]

AMERICAN LEGION HALL

Corcoran, California

Monday, June 5, 1939.

10 O'clock A. M. [1695]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: The Respondents are ready, Mr. Examiner.

Mr. Walsh: The Board is ready.

Mr. Mouritsen: Mr. Johnston, will you take the stand?

W. R. JOHNSTON

recalled to the stand by and on behalf of the National Labor Relations Board, having been previously duly sworn, was further examined and testified as follows:

Trial Examiner Lindsay: Is that spelled with a "t?"

The Witness: Yes, sir.

Mr. Clark: I take it, Mr. Examiner, that this witness is called as part of the Board's case against the Respondent, Associated Farmers of Kings County. Is that correct?

Mr. Mouritsen: That is correct.

Mr. Clark: May the record show my general objection upon the ground that the Board has no jurisdiction whatsoever with respect to that Respondent, and that there is no showing in this record that Respondent, Associated Farmers of Kings County, is an employer within the meaning of the National Labor Relations Act?

Now, also, if I may have the general objection that I had the other day, Mr. Walsh—(Pause).

Mr. Walsh: It will be stipulated that the general objection of counsel may run to the entire testimony of the wit- [1697] ness.

Mr. Clark: I am now thinking of the further objection that the witness's testimony is incompetent, irrelevant and immaterial. I better make that when we come to the first question. I will ask you for the same stipulation we had the other day.

Mr. Walsh: All right.

(Testimony of W. R. Johnston.)

Direct Examination

Q. (By Mr. Mouritsen) Now, Mr. Johnston, were you present at the Boswell plant on or about January 30th, 1939, which has previously been identified as the day upon which certain pickets of the American Federation of Labor were requested to leave the plant, or the vicinity of the plant of the J. G. Boswell Company? A. Yes, sir.

Q. How did you proceed to the vicinity of the plant on that morning in question?

A. (Pause.)

Q. Do you understand that?

A. How we went down, or how I knew it?

Q. How did you go to the plant, if you went to the plant on that morning?

A. With R. K. Martin.

Q. And anyone else? A. E. C. Ely. [1698]

Q. Did you drive down there? A. Yes, sir.

Q. And on that morning do you recall whose car you went to the plant in?

A. Yes, sir; R. K. Martin's.

Q. And who drove the car? A. Martin.

Q. And where were you seated in the car?

A. In the back.

Q. Where was Mr. Eugene Clark Ely sitting?

A. He was in the front with Martin.

Q. Now, will you tell us what you observed as you approached the plant on that morning in question?

Mr. Clark: Objected to upon the ground it is

(Testimony of W. R. Johnston.)

incompetent, irrelevant and immaterial, and is hearsay and not binding upon any of the Respondents in this proceeding; upon the further ground that there has been no authority whatsoever shown from any of the Respondents to any of the persons alleged to have been at the Boswell plant on the morning of January 30th, 1939, to speak for or bind the Respondents by their acts or conduct.

Now, I will ask for a stipulation, Mr. Walsh, that—Mr. Mouritsen, rather—that that objection may run to this witness's entire testimony.

Mr. Mouritsen: So stipulated.

Trial Examiner Lindsay: He may answer. [1699]

The Witness: Well, I noticed a large group of cars and men when we drove up. We couldn't get—we tried to drive up where the picket car was, but we couldn't get off of the road, even. The road was—there was too many people there to get through. [1700]

Q. (By Mr. Mouritsen) And I take it you did drive up into the crowd, is that correct?

A. Yes, sir.

Q. Now, will you state what you observed and what you heard after that time, giving the identify of any persons whom you recognized?

A. Well, Lloyd Liggett came up on Martin's side and opened the door. And he said that they didn't—we would have to get out, that they didn't aim to have this A. F. of L. in Corcoran.

Then they were all ganged around the car.

(Testimony of W. R. Johnston.)

Q. Did Mr. Martin say anything at that time?

A. I don't remember whether he did or not.

Q. Now, continue. Tell us what happened after that time.

A. Well, when they came up and told us—kept on talking about it, how we would have to get out and we would have to leave the San Joaquin Valley. And Martin wanted to know who was doing it.

Q. Did anyone reply to that? Did anyone say anything when he asked him that? A. Yes.

Q. Do you recall who said anything at that time?

A. E. C. Salyers and I believe Forrest Riley and Lloyd Liggett.

Q. What did they say?

A. They were the first three that spoke up and they said, [1701] "We, the Associated Farmers of Kings County."

Q. Was anything further said about the Associated Farmers at that time?

A. They said there was about 300 there and they represented a thousand more.

Q. Now, do you recall anything further that was said or done after that time?

A. Well, we drove away and they hollered, "Let's throw them out," or "What are we waiting on?" And, "Get rid of them."

Q. Do you recall any of the individuals who made any such statement?

(Testimony of W. R. Johnston.)

A. E. C. Salyer was one and Lloyd Liggett was another one.

Q. Then after you heard those statements what did you do next?

A. We drove up to the—past the gin office and turned around and came back and stopped. And Martin told Steve Griffin and Elgin Ely that were on the picket line, “Let’s go to town.”

And they—E. C. Salyer spoke up and said, “Don’t stop in town. Get plumb out of the San Joaquin Valley. We don’t want you here.”

Q. Now, while you were present in that crowd in the car, did anyone open any of the doors of the car in which you were seated?

A. Yes. [1702]

Q. Who did that?

A. Russel Slaybough opened the one on E. C. Ely’s side. He was in the front with Martin. He opened that door.

Q. How do you know that that was Russel Slaybough?

A. It had only been about five days before that that he stopped while we were on the picket line and gave us a kind of a rough talk.

Mr. Clark: Just a moment. I move it go out, “he gave us a kind of a rough talk.” Let us have what he said, if this is going to go in in the face of the objection made.

Trial Examiner Lindsay: Yes. That may be stricken.

(Testimony of W. R. Johnston.)

Tell us what he said.

Mr. Clark: Subject to the general objection?

Trial Examiner Lindsay: That is understood.

The Witness: When he first came by, he was going to the office and he slowed down and he was saying something, and we had our windows rolled up and his was, too, and we couldn't understand what he said.

He stayed in the office about ten minutes, and he came back and stopped, and he said, "Isn't this a pretty looking thing? Is it going to get you anywhere?"

And we said we didn't know whether it would or not.

And he said he would hate to know that he was taking orders from a Russian son of a so and so on the wharf up there. [1703]

Q. (By Mr. Mouritsen) Do you recall anything else that was said on this prior occasion?

A. No, I don't.

Q. How long had you known Russel Slaybough prior to the time—well, prior to the present time?

A. I guess about a year.

Q. Now, Mr. Johnston, directing your attention again to this gathering on the morning when the pickets were requested to leave, will you give us the names of as many individuals as you recognized that time who were present in the crowd?

A. Lloyd Liggett, Forrest Riley, E. C. Salyer, Bill Wilbur, and Slim Jones and Garland Salyer.

(Testimony of W. R. Johnston.)

That is about as many as I can remember, I guess.

Q. I will ask you, do you know Brice Sherman?

A. I know him when I see him, is all.

Q. Do you recall whether or not on that morning you saw him present?

A. Well, I think I saw someone and it was described that that was him, and I was told——

Mr. Clark (Interrupting): I ask that that go out. The question is, did you see Brice Sherman.

Trial Examiner Lindsay: Yes, it may go out.

Read the question.

(The question referred to was read by the reporter, as set forth above.) [1704]

Trial Examiner Lindsay: Answer that yes or no.

The Witness: Well, I couldn't say for positive.

I don't know the man, just when I see him is all.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Johnston, of course you have discussed your testimony that you have just given in this case with the other Union members, haven't you? A. Not that I know of.

Q. You mean to say that you haven't talked over the matters you have just testified to with any of the other members of the Union prior to your getting on the stand this morning? A. No, sir.

Q. Are you sure of that?

A. I am sure of that.

Q. Is it your testimony that you haven't talked these matters over with Mr. Martin, for instance?

(Testimony of W. R. Johnston.)

A. No, sir.

Mr. Mouritsen: I object to that upon the ground that the question is misleading, and confusing, and it isn't a fair question, whether he has talked his testimony over. That is different than if he has talked the matter over or discussed the matters themselves.

Mr. Clark: The question calls for whether or not he discussed the matters to which he testified this morning with [1705] Mr. Martin.

Trial Examiner Lindsay: That is a new question. He may answer that.

Mr. Clark: Very well. I will put that question.

Q. Will you please tell us, Mr. Johnston, whether you have discussed the matters to which you have testified this morning on the witness stand, with Mr. Martin prior to coming here this morning? A. No, sir. [1706]

Q. (By Mr. Clark) You are positive of that?

A. Positive.

Mr. Mouritsen: I object to the form of the question; "Prior to coming here this morning" is very misleading, I submit.

Mr. Walsh: I object on the further ground that the question is indefinite until the time when any conversation between this witness and Mr. Martin is identified.

Mr. Clark: The witness said he didn't discuss it at all.

Trial Examiner Lindsay: I have sustained the objection.

(Testimony of W. R. Johnston.)

Mr. Clark: Very well.

Trial Examiner Lindsay: I sustained the objection.

Q. (By Mr. Clark) Have you ever talked over with Mr. Martin your statement that Mr. Russell Slaybough was present at the Boswell plant on the morning of January 30th? A. No, sir.

Q. Have you ever talked over with Mr. Martin any of the other matters to which you have testified here this morning?

Mr. Walsh: I object unless counsel directs the witness' attention to the specific things concerning which he has testified.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Have you ever discussed the testimony which you have given here this morning, or the matters to which you have testified, with Mr. Griffin? [1707] A. No, sir.

Mr. Walsh: I move that the answer be stricken for the purpose of making an objection. I object unless the exact things concerning which the witness has testified are directed to his attention, in an attempt to impeach the witness.

Mr. Clark: There is no objection like that known to the law, Mr. Examiner, with respect to questions of this character, and I will submit it.

Trial Examiner Lindsay: You make your questions specific.

Q. (By Mr. Clark) I will ask you whether or not you have ever discussed this case with anyone whomsoever, Mr. Johnston?

(Testimony of W. R. Johnston.)

A. Not that I know of.

Q. You are positive of that, are you?

A. Yes, sir.

Q. By the way, are one of the Ely boys—or, rather, is one of the Ely boys commonly called “Fat” Ely? A. Call him “Fat Boy.”

Q. “Fat Boy” Ely? A. Yes, sir.

Q. Sometimes you call him “Fat” Ely?

A. I never did.

Q. Well, have you heard him called “Fat” Ely?

A. I never did.

Q. He is called “Fat Boy” Ely, is that right?

A. Someone named him “Fat Boy” just here lately. I don’t [1708] know who done it.

Q. I see.

And which one is that?

A. That is E. C. Ely.

Q. That is Eugene Clark Ely, is that right?

A. That is right.

Q. You weren’t here last Saturday morning when Mr. Slaybough testified, were you?

A. No, sir.

Q. Now, Mr. Johnston, how long had you known Mr. Slaybough prior to January 30, 1939?

A. About a year; something like that.

Q. How did you come to know him?

A. Why, he was down to the gin a lot.

Q. Well, did you ever have any transactions with him of any kind? A. No, sir.

Q. Had you ever had any conversation with him at all?

(Testimony of W. R. Johnston.)

A. Oh, I don't know. I talked to everyone, nearly, that come in there.

Q. What were you doing at the plant during the time you worked there prior to November of 1937? A. Just first one thing and—

Mr. Mouritsen (Interrupting): Does counsel mean November of 1937? [1709]

Mr. Clark: '38, I mean.

The Witness: Just first one thing and then another.

Q. (By Mr. Clark) Just odd jobs, isn't that right? A. No, it wasn't odd jobs.

Q. Well, what—

A. (Interrupting): Whatever they needed me on.

Trial Examiner Lindsay: I think that has already been covered.

Mr. Clark: I think that appears in the prior examination of the witness.

Q. During the time that you worked at Boswell's, did you have any occasion to deal with Mr. Slaybough? A. No, sir. [1710]

Q. Do you remember ever talking to Mr. Slaybough on any occasion prior to these you have testified to here this morning?

A. I don't believe I do.

Q. How did you come to know Mr. Slaybough prior to the time you testified to here this morning?

A. Well, I have seen him a plenty of times.

Q. In other words, someone else pointed him out to you? A. I know who—

(Testimony of W. R. Johnston.)

Mr. Clark (Interrupting): Just a moment, please. I move that that go out, your Honor. May I have the answer read?

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I ask that go out. I will re-frame the question and ask that the answer go out.

Trial Examiner Lindsay: Then you are withdrawing the question?

Mr. Clark: That is right.

Trial Examiner Lindsay: Then, therefore, the answer is also out.

Mr. Clark: Very well.

Q. Now, did someone point Mr. Slaybough out to you? A. Not that I know of.

Q. Well, the thing I am after, Mr. Johnston, is how you came to know who he was? [1711]

A. My Goodness, if you be around a fellow all the time, like in court in here, and see him enough, and hear other people talking to him, and call him "Slaybough," you are bound to know who he was, wouldn't you?

Q. Is it your testimony that he was around the Boswell plant all the time?

A. Not all the time. I have seen him down there.

Q. A great many times? A. Quite a few.

Q. Well, how often would you say prior to the time you testified to?

A. I don't know how many times. I never kept track on it.

(Testimony of W. R. Johnston.)

Q. Will you describe Mr. Slaybough for us?

A. He is kind of slender, wears glasses and a big hat.

Q. What color is his hair?

A. I don't know what color his hair is.

Q. How tall would you say he is?

A. I don't know. I would say he was around 5:10 or 11, maybe.

Q. How much would you say he weighed?

A. I don't know how much he weighs.

Q. Do you remember how he was dressed on the morning of January 30th when you say you saw him?

A. Nothing otherwise than his glasses and his big hat.

Q. Do you remember anything about him except that? [1712]

A. That is all.

Q. That is all you can give us, so far as the manner in which he was dressed?

A. I believe it is.

Q. Now, did you actually see Mr. Slaybough there on that morning, Mr. Johnston, or did someone tell you that Slaybough was there?

A. How many times do I have to answer one question?

Trial Examiner Lindsay: Answer the question.

The Witness: Sure, I seen him.

Mr. Clark: What is that, again, please? May I have it read back?

Trial Examiner Lindsay: Well, he didn't answer the question.

(Testimony of W. R. Johnston.)

Mr. Clark: I would like the answer read back.

Trial Examiner Lindsay: All right. Read the answer, please.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: That was not the answer, Mr. Examiner. There was another word in there which I would like in the record.

Trial Examiner Lindsay: Was there another word in there?

The Witness: Not that I remember.

Q. (By Mr. Clark) Didn't you use the word "Christ?" [1713] A. I don't know.

Q. Didn't you say, "Christ, how many times do I have to answer the question?"

That was the testimony. I would like it in there.

Trial Examiner Lindsay: If it is, it will go in there, but, Mr. Clark, let us proceed with the examination.

Mr. Clark: I am wondering about what happened to go down in the record.

Trial Examiner Lindsay: There isn't anything unusual about that. I believe other witnesses up here have also sworn, if he did swear.

Mr. Clark: And that profanity is in the record, so I would like this also in.

Mr. Walsh: If the witness did use the word, I move that it be stricken on the ground——

Mr. Clark (Interrupting): You know perfectly well that he did.

(Testimony of W. R. Johnston.)

Mr. Walsh: No, I don't, as a matter of fact. If he did, I would just as soon it be in there.

Trial Examiner Lindsay: If he used it, it may be in there. In fact, I didn't hear it.

Q. (By Mr. Clark) Are you just as positive, Mr. Johnston, of the fact—withdraw that.

Are you just as positive that Russel Slaybough was at the Boswell plant on the morning of January 30th, 1939, during [1714] this incident you have described, as you are of every other fact you have testified to in this case? A. Yes, sir.

Q. There is just no doubt about it in your mind, is there? A. There is no doubt.

Q. And you have not discussed your testimony in the case with any other person prior to taking this witness stand? A. No.

Q. Let me ask you whether there were some other people there, if you remember?

Trial Examiner Lindsay: Let us go back and read the record. I believe there is one question that has not been answered which was forgotten through these arguments.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Clark) Now, Mr. Johnston, did you see Mr. Bob Wilbur at the plant that morning?

A. Yes, sir.

Q. Was he quite active in helping or aiding whatever was happening down there?

A. He seemed to be active enough.

(Testimony of W. R. Johnston.)

Q. Would you say he was one of the leaders?

A. I don't know. I imagine he would be. He was doing a lot of talking.

Q. I see. [1715]

He was doing more talking than anyone else?

A. No, I wouldn't say that.

Q. As much as anyone else?

A. Doing as much.

Q. All right.

Now, how about Mr. Filcher? Did you see him there? A. Yes, sir.

Q. And was Mr. Filcher quite active in doing whatever these men were doing?

A. I didn't hear Mr. Filcher say anything.

Q. You are positive of that?

A. I am not positive, but I don't recall anything that was said—there were so many people talking at one time, that you don't remember whether he said anything or not.

Q. I see.

Was Mr. Filcher right up close to your car?

A. He wasn't right against the car, but I would say he was approximately ten feet away.

Q. Was he one of the group that surrounded your car? A. Yes, sir.

Q. You would say he was active in helping—

A. (Interrupting): Oh, yes.

Q. (Continuing) —that crowd do whatever they were doing down there; is that right?

A. That is right. [1716]

(Testimony of W. R. Johnston.)

Mr. Clark: Pardon me just a minute, Mr. Examiner.

Trial Examiner Lindsay: All right. [1717]

Q. (By Mr. Clark) Now, how about Bill Wilbur. Did you see him there? A. Yes, sir.

Q. Was he quite active?

A. I never heard him say anything, but he was standing close to the car.

Q. Was he in that crowd that was surrounding the car? A. Yes, sir.

Q. How long have you known Robert Wilbur and Mr. Bill Wilbur?

A. I don't know whether both are the same one; call him "Bill" is all I know.

Q. Well, don't you know that there is a man named Robert Wilbur in this community and also one named Bill Wilbur?

A. The one I am speaking of, I guess his name was supposed to be Robert, but they call him "Bill."

Q. You only know one Mr. Wilbur then, is that right? A. That is right.

Q. For how long have you known him?

A. I don't know just how long; since '36 I guess.

Q. And under what circumstances did you meet him? A. Through Salyer.

Q. What? A. Through E. C. Salyer.

Q. Through E. C. Salyer? Did Mr. Salyer introduce you to Mr. Wilbur? [1718] A. No, sir.

Q. How did you come to know Mr. Wilbur?

(Testimony of W. R. Johnston.)

A. I used to work for Mr. Salyer.

Q. And you saw Mr. Wilbur around Mr. Salyer's place? A. Yes, sir.

Q. Will you please describe this Mr. Wilbur for me?

A. Heavyset, I guess—I don't know. I imagine he is as tall as I am. He had—he is a lot heavier.

Q. How tall is that? A. Around six foot.

Q. How heavy would you say?

A. I imagine he weighs 200 or better.

Q. And what color is his hair?

A. I don't know what color. I never paid any attention.

Q. Is he light complexioned or dark complexioned?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: I will submit it.

Trial Examiner Lindsay: He may answer.

The Witness: I would call him dark complexioned. He is not dark and light, either one.

Q. (By Mr. Clark) Dark hair?

A. I imagine.

Q. Does he wear glasses?

A. I have never seen him with any pair on.

Q. How was he dressed this morning at the plant? [1719]

Mr. Mouritsen: What was that question?

Q. (By Mr. Clark) How was he dressed on that morning at the plant? That is, on January 30th?

(Testimony of W. R. Johnston.)

A. I couldn't say how he was dressed. I didn't pay any attention to his clothes.

Q. Can you give us any description at all?

A. No.

Q. Of the manner in which he was dressed?

A. He was dressed as he usually is, I imagine.

Q. How is that?

A. With a pair Levi's and a shirt on and a hat.

Q. What kind of a hat? A. I don't know.

Q. Did you actually see him there?

A. Yes.

Q. Or did someone tell you he was there, later?

Mr. Mouritsen: Objected to as already asked and answered.

Trial Examiner Lindsay: Sustained.

Q. (By Mr. Clark) Now, did you see a man named Roland Bailey there that morning?

A. I don't know him.

Q. Did you see a man named Ralph Gilkey there that morning?

A. I don't know Ralph Gilkey.

Q. Did you see a man named Joe Mackey there that morning? A. Yes, sir. [1720]

Q. Are you sure of that?

A. I am almost sure.

Q. What did you mean by that?

A. I am just as sure as the rest of them.

Q. Are you just as sure that Joe Mackey was there as you are that the others were there?

A. Yes.

(Testimony of W. R. Johnston.)

Q. How long have you known Mr. Mackey?

A. Approximately six or eight months, I do not know.

Q. Under what circumstances did you meet him?

A. I just heard him talking to a fellow one day where a bunch of us were standing and talking and he was talking to someone else.

Q. Did someone else point him out?

A. He had been pointed out a long time before. I knew it was him. Someone told me it was Joe Mackey. He was over there talking to someone else.

Q. You have never spoken to him yourself, have you?

A. No, sir.

Q. Are you not on such terms that you say "Hello, Mr. Mackey" to him?

A. No, sir.

Q. Someone just pointed him out to you, is that right?

A. Yes.

Q. But you were quite sure he was there that morning of [1721] January 30th?

A. Yes, sir.

Q. Now, how about Brice Sherman? Did you see him there?

A. I don't remember whether I seen Brice or not.

Q. Do you know Brice Sherman?

A. Yes, sir.

Q. How long have you known him?

A. I don't know, ever since '36, I guess.

Q. And under what circumstances did you meet Mr. Sherman?

(Testimony of W. R. Johnston.)

A. I seen him down at the mill a lot.

Q. Do you speak to Mr. Sherman when you see him?
A. Not necessarily.

Q. Did you say hello to him? A. I have.

Q. And other times you have not, is that right?

A. That is right.

Q. How about Mr. Slaybough? Do you speak to Mr. Slaybough when you see him?

A. I spoke to him the other morning out in front here.

Q. Is that the first time you have ever spoken to him?

A. Otherwise than seeing him around. I have throwed my hand at him, several times waved at him, several times.

Q. You are quite sure you know who Mr. Slaybough is?
A. Oh, yes.

Mr. Clark: That is all. [1722]

Mr. Mouritsen: No further questions.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Mouritsen: Mr. Examiner, when Mr. R. K. Martin was on the stand Friday, I believe, he was requested by Mr. Clark, I believe, to obtain a list of the names that he made on the morning of January 30, 1939, and I believe he has obtained that list.

Mr. Clark: He wasn't requested by me. He was

requested by Mr. Mouritsen, who even asked for a recess so he could run and get it. That is my recollection.

Trial Examiner Lindsay: My recollection is that both of you talked about it. My understanding was that he was to return to the stand with them. Now, it doesn't make any difference.

Mr. Clark: I talked about it on cross examination, but I can remember Mr. Mouritsen suggesting a recess, even.

R. K. MARTIN

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

Q. (By Mr. Mouritsen) Now, Mr. Martin, I believe you stated while you were on the stand on a prior occasion that you had made a list or had written down a number of the names of the [1723] men who were present on this morning that has been identified as January 30, 1939, at which time certain pickets were requested to leave the Boswell plant.

Do you recall that?

A. Yes, sir.

Q. Now, have you made a search for such list?

A. Yes, sir.

(Testimony of R. K. Martin.)

Q. And do you now have that list?

A. I do.

Q. Now, will you tell us when this list of names was made up—strike that.

Who made the list of names?

A. I did.

Q. And when was that list made?

A. It was on the morning when we was run off.

Q. Well now, was that the—strike that.

How long afterwards after you returned from the Boswell plant was this list made?

A. I started to make it as quick as we got home.

Q. May I see the list, please?

(The document referred to was passed to Mr. Mouritsen.)

Q. (By Mr. Mouritsen) And this list is in your own handwriting, is that correct? A. Yes.

Mr. Clark: May I see it, please? [1724]

(The document referred to was passed to Mr. Clark.)

Mr. Mouritsen: Well, may I suggest, Mr. Clark, that you go into that when the witness is given to you for cross examination and ask the witness if there are any dates in there, and he will determine whether or not they are personal matters and maybe he will desire that you shall not.

Q. Now, Mr. Martin, I have returned to you the list and will you read into the record the names that you put down on that list on that morning.

(Testimony of R. K. Martin.)

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial; hearsay as to the respondents, not binding on any of the respondents in this proceeding, no authority having been shown in any of the persons who are named in that list from any of the respondents to appear at the Boswell plant for it or them on the morning of January 30, 1939, or any other time. And I will also object to this manner, may it please the Examiner, of the witness testifying. In other words, if that is being used to refresh his recollection, he cannot sit and read it into the record. He can look at it and then give us his recollection. [1725]

Mr. Mouritsen: Well, in that respect, Mr. Examiner, perhaps we could go back over the names that the witness gave before and take the record and re-read it and then ask him if there are any further names on there. However, this would save considerable time, and after all, it is a record of past events recorded at the time that they happened.

Mr. Clark: Well, if it is going to be used in that way, Mr. Examiner, I suggest that it be offered in evidence subject to the objection I have made.

In other words it has to be fish or fowl. It is either this man's recollection, or it isn't.

I want the record to show that the witness has torn a page out of a note book, a green covered notebook, which he holds in his hand, and has handed that page which is this list of names, to counsel for the Board.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: Yes.

Mr. Mouritsen: May the list that the witness has handed to me be marked Board's Exhibit next in order for identification?

Trial Examiner Lindsay: Sixteen, I believe.

Mr. Clark: By the way, Mr. Witness, can you find the place where you tore that out just now?

The Witness: Right here, I believe (indicating).

Mr. Clark: Will you please hold that for a moment, then?

(Thereupon, the document above referred to was marked as Board's Exhibit No. 16 for identification.) [1726]

Mr. Clark: Has the offer been made yet?

Mr. Walsh: Not yet.

Q. (By Mr. Mouritsen) Now, Mr. Witness, I show you the document which has been marked Board's Exhibit 16 for identification, and ask you if that is the list which you referred to when you stated that you had made it on or about January 30th, 1939, after you returned to your home from the Boswell plant?

A. (Examining document) Yes.

Mr. Mouritsen: At this time, Mr. Examiner, I offer Board's Exhibit 16 for identification, in evidence.

Mr. Clark: Objected to on the ground it is hearsay as to each and every Respondent in this case, not binding on any of the Respondents, no authority having been shown by or on behalf of any of them

(Testimony of R. K. Martin.)

to any of the persons named on that list to appear on the Boswell plant on January 30th, 1939, or any other time, or to do any of the acts which have been testified to here; and on the further grounds it is incompetent, irrelevant and immaterial, and self-serving.

Trial Examiner Lindsay: It may be received.

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit No. 16.)

Mr. Mouritsen: You may inquire.

Mr. Clark: Very well.

Cross Examination

Q. (By Mr. Clark) Mr. Martin, do you know whether or not [1727] Eugene Clark Ely is popularly called "Fat" Ely by his friends and acquaintances? A. He is.

Q. He is, isn't he? A. Yes, occasionally.

Q. Now, you weren't here on Saturday morning when Mr. Slaybough testified, were you?

A. No, sir.

Q. Let me see that green book that you took this list from which has been marked——

Mr. Mouritsen (Interrupting): I object to that on the ground——

Mr. Clark (Interrupting): May I finish my statement?

Mr. Mouritsen: Yes.

Mr. Clark: Will you read the statement I made as far as I went?

(Testimony of R. K. Martin.)

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: (Continuing) —as Board's Exhibit 16?

Mr. Walsh: I object to the examination of the book by counsel, unless the purpose of the examination is made by counsel before the examination is made.

Mr. Clark: I will state my purpose is to find out where in this book that list came from, and it will be perfectly apparent in a moment. [1728]

Mr. Walsh: I suggest that counsel hand it to the witness and ask him to find the place. It is a private record, and counsel has no right to examine it.

Mr. Clark: It is the record from which an Exhibit in this case, or purportedly an Exhibit in this case, was taken, and I have a right to look at it.

Mr. Walsh: You have a right to look at the Exhibit. The book itself is not in evidence.

Trial Examiner Lindsay: What is the objection made here?

Mr. Walsh: I will object to counsel examining the document, which is a private document of this witness which is before the Court, which is for the purpose of supplying Board's Exhibit 16, which is in evidence.

The document is not in evidence, and counsel has no right to examine it. [1729]

Mr. Clark: It happens to be a book, Mr. Lindsay, from which a page was torn in order to supply

(Testimony of R. K. Martin.)

what later became an exhibit to this court; Board's Exhibit 16 was taken from it, and I have a right it seems to me to examine the book from which an exhibit is torn in order to ascertain the verity of the exhibit.

Mr. Walsh: Mr. Examiner, there has been considerable said about my fishing, and I submit that is all Mr. Clark is doing now. He has no right to take records that are brought before this court for one purpose and use them for any other, nor has he any right to examine any of the private documents of this witness when the matter which is important to this proceeding is now before the court and in evidence.

Mr. Clark: Now, I will not—I am not examining——

Mr. Walsh (Interrupting): I submit it is improper conduct.

Mr. Clark: I am not examining any private record of this witness at all. My only purpose is to prove—which I shall do in a moment—that in this book are a series of notations with dates on them. I am not concerned with the contents of those notations. I haven't even looked at them, but I have looked at the dates, and I intend to show that in this book from which Board's Exhibit 16 was torn the dates run consecutively from a time before and to a time subsequent to January 30th, those notes being in ink, and those pages being con- [1730] secutive, so that if this document which

(Testimony of R. K. Martin.)

has been marked Board's Exhibit 16 was in fact made on the 30th, it must have been written out of place in the book. And I am entitled to that evidence to bear on the verity of this exhibit.

Mr. Walsh: I submit if counsel goes into it all, he has to offer the whole book as an exhibit.

Trial Examiner Lindsay: It will have to be offered as a whole exhibit.

Mr. Clark: I have a right to read it.

Mr. Walsh: If you offer the book as an exhibit, you have to read it all. You are bound by it.

Mr. Clark: I offer the book for identification.

Mr. Walsh: I insist you offer it.

Mr. Clark: I won't offer it if I don't want to after I read it.

Mr. Walsh: I insist if you go into it you will have to offer it.

Trial Examiner Lindsay: Listen, gentlemen. Let's understand one thing: This isn't a hide and seek game.

Mr. Clark: Of course it isn't.

Mr. Walsh: Certainly not.

Trial Examiner Lindsay: If we are going into a thing, we have a right to go into it. The court has a right to see all these things. If you go into that, I want it offered.

Mr. Clark: I am not going to offer it into evidence be- [1731] yond the purpose for which I want it; and I have a right to offer it in evidence and limit it to a specific purpose.

(Testimony of R. K. Martin.)

Trial Examiner Lindsay: We are not going to argue. I am going to sustain the objection made by Mr. Walsh.

Mr. Clark: I will make an offer of proof and take your ruling on it.

Mr. Walsh: I am still objecting to counsel examining the document.

Trial Examiner Lindsay: Sustained.

Mr. Walsh: And I move to strike anything that he offers on it.

Trial Examiner Lindsay: I request the document be handed back to the witness.

Mr. Clark: Just a minute, Mr. Examiner. I have a right to test the credibility of an exhibit which has been offered in evidence in this case and which has been torn from this book. I am not examining the contents of it.

Trial Examiner Lindsay: Mr. Clark, I have requested that certain things be done and you have seen fit to refuse.

Mr. Clark: I am about to make an offer of proof, Mr. Examiner.

Trial Examiner Lindsay: I have sustained the objection on that. That document is not in evidence, and it hasn't been brought here for that purpose. It is at your request that this specific exhibit was offered as an exhibit. [1732]

Mr. Clark: Subject to my objection.

Trial Examiner Lindsay: Subject to your objection, that is right.

(Testimony of R. K. Martin.)

I have outlined the procedure. If you see fit not to follow it, then that is entirely up to you.

Mr. Clark: I am certainly not going to offer in evidence a document which comes from this gentleman for any other purpose other than that which I think bears upon our case, and I am about to make an offer of proof. That is all in the world that I am asking permission to do.

Trial Examiner Lindsay: We are not going to get into any more argument.

Now, constantly I have been confronted with this one thing. The minute I try to say anything, I am interrupted. That kind of practice is not the kind of practice I have been used to.

We will have a ten minute recess.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Shall I proceed, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Mr. Clark: Mr. Examiner, I will ask that the green book from which Board's Exhibit 16 was taken, be marked for identification as Respondent Associated Farmers' next in [1733] order?

Trial Examiner Lindsay: Number 16 is already in evidence.

Mr. Clark: I know, your Honor.

Trial Examiner Lindsay: Sixteen is in evidence, Mr. Clark.

(Testimony of R. K. Martin.)

Mr. Clark: Yes, I understand that.

May I have it read back, please?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: I misunderstood you. It may be marked.

Mr. Clark: Very well.

(Thereupon, the document above referred to was marked as Associated Farmers of Kings County, Inc.'s Exhibit No. 1 for identification.)

Q. (By Mr. Clark): Now, Mr. Martin, I want you to——

Mr. Walsh (Interrupting): Mr. Examiner——

Mr. Clark (Continuing): ——start——

Mr. Walsh (Interrupting): Excuse me, Mr. Clark.

Mr. Clark: Yes.

Mr. Walsh: For the purpose of the record, may we have Mr. Clark describe the book, its type?

Mr. Clark: I am not offering it in evidence yet, but the Exhibit for identification just marked is a stenographer's [1734] shorthand notebook, I believe, with the label "Li-Rite" on it, stenographic notes, No. 101, and it is marked "No. 13 from E. C. Ely, 1939, to R. Martin," I believe, "1939." Is that right? A. R. K. Martin, Yes.

Q. R. K. Martin.

It is green in color and is not loose-leafed?

Now, Mr. Martin, I want to direct your attention

(Testimony of R. K. Martin.)

to a page in this note book, and I will ask you just to tell us what the date is that appears at the heading of that page? A. November 18th.

Q. Yes. Of what year? A. 1938.

Q. And the memorandum which follows that date is in writing—is in ink, pen and ink, is it not?

A. That is right.

Q. Now, will you turn to the next page which consecutively follows the one you have just identified, and will you give us, please, the date which appears in the preamble of that?

A. November 18th, 1938.

Q. And I notice the notes are likewise pen and ink, are they not? A. Yes, sir.

Q. Now, will you please turn to the next consecutive page and will you give us the date which appears there? [1735]

A. January 24th, 1938—'39.

Q. Yes.

And those notes are likewise in pen and ink, aren't they? A. Yes.

Q. Now, will you turn to the next consecutive page——

A. (Interrupting): February——

Q. (Continuing): ——and give us the date with which your notes are headed?

A. February 8th, 1939.

Q. And those notes are likewise in pen and ink, aren't they? A. Yes, sir.

Q. Now, will you turn to the next one and give us the date there, please?

(Testimony of R. K. Martin.)

A. February 14th, 1938.

Q. And those notes are likewise in pen and ink, aren't they? A. They are.

Q. Yes. All right.

Will you please state generally——

Mr. Mouritsen (Interrupting): May we have that date? I think the witness said "1938," or someone did.

Mr. Clark: I think it does say February 14th, 1938. Can you tell us whether the right date there would be '39, after reading whatever it says?

The Witness: '39.

Q. (By Mr. Clark): In other words, the date should be Febru- [1736] ary 14th, 1939: is that right? A. That is right.

Q. The date "1938" is just an error, is that true? A. That is right.

Q. Now, will you please tell us, generally, Mr. Martin, without divulging the contents of any of those memoranda, whether they have to do with matters affecting the Union involved in this case and the Boswell situation?

A. Well, I don't know how to explain that without telling the contents.

Q. I don't want you to explain the contents. I want you to just tell me whether or not I am correct in stating that these memoranda are notes made by you on or about these dates respecting the matter under investigation here?

A. Yes, sir.

(Testimony of R. K. Martin.)

Q. They are, aren't they? A. They are.

Q. All right.

Now, am I likewise correct in stating that the memorandum which is written in pencil, and which is now marked Board's Exhibit 16, and which is dated January 30th, 1939, was taken by you, at Mr. Walsh's request, just before it was admitted in evidence, from a totally different part of the book?

A. It was, on this side of the book.

Q. And by "this side," you are turning the book over and indi- [1737] cating the opposite end of the book, if we can call it that, is that right?

A. That is right. [1738]

Mr. Clark: Now, we will offer, may it please your Honor, the Associated Farmers' Exhibit 1 for identification in evidence for the limited purpose as showing the position and dates of the pen and ink notes just testified to.

Trial Examiner Lindsay: Received for that purpose.

(Thereupon the document above referred to was received in evidence and marked Associated Farmers' Exhibit No. 1.)

Mr. Walsh: Are you through with it?

Mr. Clark: Yes, but I am not through with the witness.

Mr. Walsh: Go ahead.

Q. (By Mr. Clark): Directing your attention to Board's Exhibit 16, which is the pencil memorandum taken from the back of the book which you

(Testimony of R. K. Martin.)

have just told us about, it says, "Men identified January 30, 1939," and there follows a list of names. That is correct, isn't it?

A. That is correct.

Q. Now, when was it you made up this list?

A. The same day, January 30, 1939.

Q. And how long after you returned from the Boswell plant was it, Mr. Martin, that you made it up?

A. Oh, I would say ten or fifteen minutes I started after I got home.

Q. I see.

And how long after the events which you have described on your direct examination at the plant was it that you actually [1739] got down and started to write this memorandum?

A. I would say twenty or maybe thirty minutes.

Q. I see.

That question, you see, includes the time it took you to get home from the plant? A. Yes.

Q. All right.

Did you personally identify all of the names which appear in this exhibit? A. I did.

Q. Are all of these men known to you personally? A. Yes.

Q. So when you say "Men Identified January 30, 1939," you mean the men which you personally identified? A. Yes, sir.

Q. Now, you did not then sit down and corroborate with any of the other people who were at the plant with you? A. No.

(Testimony of R. K. Martin.)

Q. And as you made this list out ask them whether so-and-so was there? A. No.

Q. In other words, it is your own personal observation? A. Yes, sir.

Q. Why was it you didn't put it down in order with the other notes that were in the book? [1740]

A. Well, one of those was in one side of the book and one was in the other. You can use either side of the book.

Q. Isn't this the only note of similar purport that was in the back of the book?

A. Yes, sir.

Q. In other words, I am correct in stating, am I not, that on January 30th when you made the list which was marked Board's Exhibit 16, the last note of the pen and ink notes in the book was that of January 24, 1939? A. Yes, sir.

Q. And the ones of February 8, 1939, or February 14, 1939, had not yet been written, is that true? A. That is right.

Q. And am I likewise correct in stating that now nowhere in this book, Board's Exhibit 16 having been removed, appears any memorandum by you of similar purport that is involving this situation?

A. Yes.

Q. The answer is, that is right?

A. Yes, sir.

Q. Is that the answer? A. Yes, sir.

Q. Now, let me ask you again why wasn't it that you didn't simply sit down and put this January

(Testimony of R. K. Martin.)

30, 1939, memorandum in order after the one of January 24th? [1741]

Mr. Mouritsen: Objected to as already asked and answered.

Mr. Clark: I don't think it is clearly, and I would like it again.

Trial Examiner Lindsay: Sustained.

Mr. Clark: Very well.

Q. Now, Mr. Martin, you are absolutely positive that Brice Sherman was there and you saw him that morning? A. Yes.

Q. How long have you known Mr. Sherman?

A. Three or four years, I guess.

Q. And under what circumstances, please?

Mr. Mouritsen: Objected to.

Q. (By Mr. Clark): I mean, can you describe the state of your acquaintance with him?

A. I can.

Q. Will you please tell us.

A. He worked for the Boswell Company in the office there for quite a while.

Q. And you met him at that time, did you?

A. Yes.

Q. And there can't be any mistake at all concerning your identifying him, is that correct?

A. Yes, sir.

Q. How long had you known Russel Slaybough, again, please?

A. About six years, between five and six years. [1742]

(Testimony of R. K. Martin.)

Q. Did you likewise know him well enough to speak to? A. Yes.

Q. So there couldn't be any doubt of your identification of him, could there?

A. That is right.

Q. Now, how about Everett Salyer? Did you see him there? A. Yes, sir.

Q. How long do you think you have known Everett Salyer?

A. I have known him for four or five years.

Q. And do you know him well enough to speak to or to stop and talk to?

A. I don't know as I ever did talk to him or have any conversation with him.

Q. Did you say prior to January 30th when you saw him you would say hello to him?

A. Yes.

Q. You knew him all right, in other words?

A. Yes.

Q. And did he return your salutation to you on those occasions?

A. No, sir; he didn't.

Q. And so far as you know you have never stopped and talked to him on any occasion?

A. No, sir.

Q. How was Everett Salyer dressed that morning? Do you re- [1743] member? That is, January 30th. A. He wore Levi's.

Q. And by those you mean dungarees?

Mr. Mouritsen: I object. I think the witness has identified them.

(Testimony of R. K. Martin.)

The Witness: It is made of blue cloth, isn't it?

Q. (By Mr. Clark): Of overall cloth?

Mr. Mouritsen: It has rivets on the pockets.

Mr. Clark: In the Navy we call them dungarees.

Q. You weren't in the Navy, were you?

A. No, sir.

Q. All right.

Now, did you see Roy Filcher there that morning? A. Yes, sir.

Q. Was Filcher active in doing whatever was being done there?

Mr. Mouritsen: Objected to as indefinite. That isn't a fair question, Mr. Examiner.

Mr. Clark: All right. I withdraw that question, Mr. Examiner.

Trial Examiner Lindsay: All right.

Q. (By Mr. Clark): You did see Filcher there?

A. Yes.

Q. What was he doing when you saw him, without any lengthy description? [1744]

A. He was standing off about 10 or 12 feet from the car.

Q. Was he one of the persons that was close to your car? A. Yes.

Q. Did you see Mr. Ralph Gilkey there on that morning?

A. I don't know as I know him. I know the two Gilkeys, but I don't know them apart. I can't say that he was.

Q. Did you see Mr. Joe Mackey there that morning? A. Yes, sir.

(Testimony of R. K. Martin.)

Q. Do you know Mr. Mackey?

A. Yes, sir.

Q. How long have you known him?

A. About six years.

Q. And under what circumstances, please?

A. Well, I have hauled cottonseed cake from the J. G. Boswell Company out to the ranch that he runs for them at that time.

Q. You got to know him at that time, did you?

A. I had to take a bill of stuff to him to get it signed.

Q. So there is no doubt at all about your being able to identify Mackey, is that right?

A. Yes, sir.

Q. And you are positive he was there that morning?

A. Yes, sir.

Q. Now, how about Bob Wilbur? Was he there at the plant that morning?

A. There was two Wilburs. As I understand, they are both [1745] brothers.

Q. Yes. I think so. A. Yes, sir.

Q. I don't know that they are brothers, but there are two Wilburs. A. Yes, sir.

Q. One is Bill and one is Bob Wilbur?

A. Yes.

Q. Do you know them both? A. Yes, sir.

Q. Do you know them both well enough to identify them? A. Yes, sir.

Q. How long have you known them?

(Testimony of R. K. Martin.)

A. The one known as Bob, I think I have known him for two years, something like that.

Q. And do you know him well enough to speak to when you see him? A. Yes, sir.

Q. Does he return your greeting?

A. He did.

Q. I mean, prior to this—

A. (Interrupting): I don't know as I have seen him since then.

Q. Prior to January 30th, whenever you have seen Bob Wilbur—which did you say?

A. Bill. The light complexioned one is the one I think they [1746] call Robert, and the dark complexioned, Bill.

Q. Let's take Bill Wilbur.

Prior to January 30th when you saw him and spoke to him, would he say Hello to you?

A. I don't think I have seen him since.

Q. I mean prior?

A. Yes. He used to work for Boswell Company.

Q. There is no doubt about your being able to identify him? A. Yes, sir.

Q. How about Bob Wilbur? How well do you know him?

A. Bob is the dark complexioned one we have just described.

Q. What about the one we have not described. Bill Wilbur?

A. I don't know him as well as the other one.

(Testimony of R. K. Martin.)

Q. But there is no doubt you can identify them?

A. No, sir.

Q. Did you have any conversation with him?

A. No, sir.

Q. Ever spoken to him on the street?

A. Oh, yes.

Q. In your list here you just have Mr. Wilbur.

Which one do you mean?

A. It is the light complexioned, the heavy set one.

Q. What is his name?

A. I don't know—I think his name is Robert.

Q. I see.

Well, at the time you wrote this list, you didn't know what [1747] his first name was, did you?

A. That is right.

Q. In other words it is right that you didn't know what his name was?

A. No, I knew Bill, they called him Bill, but I didn't know whether his name was Robert or what his name was.

Q. Well, I notice that in other respects here you have the first names of people such as Lloyd Liggett, Forrest Riley? A. Yes, sir.

Q. But when you come to Wilbur, it is just Mr. Wilbur? A. Yes, sir.

Q. What was the reason for that?

A. I didn't know the difference in their names.

Q. You didn't know his first name, did you?

A. That is right.

(Testimony of R. K. Martin.)

Q. Which ever Wilbur it was, will you please tell us whether he was one of the group which came up to your car there?

A. The dark complexioned one, he was, but he didn't get up as close as the other.

Q. Is it your testimony that they were both there? A. Yes, sir.

Q. Why didn't you put the names of both of them on your list?

A. I just didn't remember him at that time.

Q. So you just put one Mr. Wilbur there?

A. Yes. [1748]

Mr. Clark: That is all.

Mr. Walsh: May I ask the witness a question or two on redirect examination?

Trial Examiner Lindsay: Yes.

Redirect Examination

Q. (By Mr. Walsh): Mr. Martin, I believe you have had in your hand the book which has been admitted into evidence as Associated Farmers' Exhibit No. 1, that is the book you have in your hand?

A. Yes.

Q. You made all of the entries that are in that book, did you? A. Yes.

Q. And all of the things, all of the memoranda that Mr. Clark called your attention to were written by you? A. Yes.

Q. And were they written on the dates that were indicated on each one of these memoranda?

A. Yes.

(Testimony of R. K. Martin.)

Q. And all of these memoranda relate to the matters that are being investigated here now, aren't they?
A. Yes.

Mr. Walsh: Mr. Examiner, at this time I desire to mark for identification Associated Farmers' Exhibit No. 1 as Board's Exhibit next in order, to be 17. [1749]

(Thereupon, the document above referred to was marked as Board's Exhibit No. 17 for identification.)

Mr. Walsh: I offer in evidence, for all purposes, the book which is now marked for identification as Board's Exhibit 17. I desire to offer it in evidence.

Mr. Clark: I object to that upon the ground it is hearsay and self-serving, not probative of any issue in this case, Mr. Examiner, except so far as the limited purpose for which the Respondent, Associated Farmers of Kings County, offered it on this gentleman's cross examination. In other words, it is simply made up of statements made by him which I haven't even examined.

Trial Examiner Lindsay: Well, you have a right to.

Mr. Clark: And which are undoubtedly self-serving and hearsay as to the Respondents.

Trial Examiner Lindsay: If you desire, you have a right to examine them right now before I receive them.

Mr. Clark: Very well.

(Testimony of R. K. Martin.)

(The document referred to was passed to Mr. Clark.)

Mr. Clark: Now, having examined the proposed Exhibit, Mr. Examiner, I will object to it upon the same grounds, namely, self-serving and hearsay as to all these Respondents.

Trial Examiner Lindsay: It may be received as Board's Exhibit 17 for all purposes.

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit 17.) [1750]

Mr. Walsh: That is all.

Mr. Clark: May I ask one or two questions?

Trial Examiner Lindsay: Yes.

Recross Examination

Q. (By Mr. Clark): Mr. Martin, I notice on the cover of this book it says "From E. C. Ely to R. K. Martin." Do you remember that?

A. Do I remember that?

Q. Yes. A. Yes, sir.

Q. In whose handwriting is that in, please?

A. That is E. C. Ely's.

Q. Is that the gentleman known as "Fat" Ely?

A. Yes, sir.

Q. When did you receive this book from Mr. Ely?

Q. I didn't receive it from Mr. Ely.

Q. Well, what is the meaning of that description on the cover?

(Testimony of R. K. Martin.)

A. He just did that while we were on the picket duty.

Q. Just jokingly, is that all? A. Yes.

Q. You didn't get the book from him in the first place? A. No.

Q. By the way, do you remember the first Union gathering or gathering of Union people that Eugene Clark Ely attended?

A. I don't know whether I do. [1751]

Q. Early——

A. (Interrupting): The first one?

Q. Yes. Was it as early as November 16th of '38?

A. It was—well, as I remember, it was the trip we made to Bakersfield.

Q. And when was that, please?

A. (Pause.)

Q. Just fix it as best you can with respect to whether it was before or after the first of the year.

A. It was in the first of January I think we made that trip.

Q. January of 1939? A. Yes.

Q. Is that the first time, so far as you can remember, that Eugene Clark Ely or "Fat" Ely ever attended a gathering of union members?

A. No. I think he was present at a gathering before that.

Q. And how long before, please?

A. Oh——

Q. (Interrupting): Just as nearly as you can fix it. A. Approximately a month or two.

(Testimony of R. K. Martin.)

Q. As early as November of '38?

A. I couldn't say; something around there, maybe December.

Q. Do you remember whether or not he was present at the gathering of November 16, 1938? [1752]

Mr. Mouritsen: Now, may it be identified to the witness? It is not a fair question.

Mr. Clark: I think Mr. Martin testified to there being a union meeting on the 16th.

Q. Isn't that right? A. Yes.

Q. Do you remember there was a meeting on November 16th just before your committee met with Gordon Hammond on the morning of the 17th?

A. Yes.

Q. All right.

Now, I am directing your attention to this meeting of the 16th. I want to ask you whether you remember whether or not Eugene Clark Ely was present at that gathering at any time either before or after the actual meeting was held.

A. I don't remember about that meeting, whether he was or was not.

Q. Would you say he wasn't there?

A. He wasn't there during the meeting, I know.

Q. Well, would you say that he wasn't there some time during the gathering?

A. No, wouldn't say he wasn't.

Q. All right.

Now I notice that in your memoranda here of

(Testimony of R. K. Martin.)

November 18, 1938, under the heading of "Union members laid off before the [1753] lock-out, November 18, 1938" are the names of Walter Winslow, Peter Galvan, Lawrence Galvan, Vidal Galvan, Manuel Escabedo, Elmer Eller, W. R. Johnston, B. L. Ely, S. J. Griffin."

And then immediately under that "Union members forced off the jobs November 18, 1938, L. A. Spear, O. L. Farr, H. N. Wingo, George Andrade, E. C. Powell, Joe Briley, R. K. Martin."

Will you please tell us whether those names constituted the entire membership of your union on that day?

Mr. Mouritsen: Before this is answered, if the witness is going to be asked a question regarding that, I submit he should have an opportunity to examine the memoranda about which he is being examined, and, furthermore, that the question is objectionable in that it is incompetent, irrelevant and immaterial, not tending to prove or disprove any of the issues in the matter.

Mr. Clark: It is a question preliminary to a question I will ask in just a minute.

Trial Examiner Lindsay: The objection is sustained.

Mr. Clark: Very well.

Q. Is there any member of your union, or was there any person who belonged to your union on November 18, 1938, who was not either laid off prior to that time or forced off on that day?

(Testimony of R. K. Martin.)

Mr. Walsh: Objected to.

Mr. Clark: Of course, the gravamen of the charge here, [1754] may it please the Examiner, is that Boswell Company has discriminated against persons because of their affiliations with this union.

I will take the ruling.

Trial Examiner Lindsay: The objection is sustained.

Mr. Clark: Very well.

Q. Now, Mr. Martin, let me ask you whether I am not correct in stating that Peter Galvan was put back to work by Boswell's after this time?

A. Yes, he has been back.

Q. Do you know whether or not he is working now?

A. No, sir, I don't.

Q. And how about Lawrence Galvan, didn't he go back to work after November 18th at Boswell?

A. I think he worked a few days.

Q. Do you know whether he is working now?

A. No, sir, I don't.

Q. And how about Vidal Galvan? Didn't he go back to work with Boswell after this time?

A. I think he worked a few days.

Q. And how about Manuel Escabedo? Wasn't he given work by Boswell after that time?

A. Yes.

Q. How about Elmer Eller? Do you know anything about him?

A. He has not been given work since. [1755]

Mr. Clark: I see. That is all.

(Testimony of R. K. Martin.)

Just one other question.

Q. Am I correct in stating that the names of the men I just read to you, namely, the Galvans and Escabedo, refused to take part in the boycott against the Boswell's, which has been testified to in this case?

Mr. Walsh: I object as not being material.

Mr. Clark: I will submit it, because they were returned to work and I want to show the reason.

Trial Examiner Lindsay: I will sustain the objection to that question.

Mr. Clark: Very well.

Mr. Walsh: No further questions.

Mr. Clark: No further questions. I have one further question, if I may, before this witness is excused.

You said that Eller hadn't been returned to work. He is down in the State of Georgia now, isn't he?

The Witness: He is.

Mr. Clark: All right. Thank you.

(Witness excused.)

Trial Examiner Lindsay: We will adjourn until 2:00 o'clock.

(Thereupon, at 12:00 o'clock noon, a recess was taken until 2:00 o'clock p. m. of the same date.) [1756]

(After recess.)

(Whereupon, the hearing in the above-entitled matter was resumed, pursuant to recess, at 2:00 o'clock p. m.)

Trial Examiner Lindsay: Hearing called to order.

Mr. Walsh: Walter Winslow.

Mr. Clark: Mr. Examiner, and Mr. Walsh, I wonder whether we could put on Mr. Botts to identify the list of members—

Mr. Walsh (Interrupting): Oh, yes.

Mr. Clark (Continuing): —that he was preparing pursuant to agreement of last week, so we could have him do that and get rid of him and allow him to go back to work.

Mr. Walsh: That is satisfactory.

Mr. Botts.

HAROLD E. BOTTS

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and further testified as follows:

Cross Examination

(Continued)

Trial Examiner Lindsay: Let the record show that Mr. Botts is being recalled.

Q. (By Mr. Clark): Mr. Botts, I show you what purports to be a list of members of the Associated Farmers of Kings County, Inc., dated March 1st, 1939, and upon which appears certain writing opposite certain of the names, as in the case of Jesse Anderson, the words "Joined before

(Testimony of Harold E. Botts.)

January 30, 1939," and to [1757] which list is annexed a letter signed by you dated June 5, 1939.

I will ask you whether or not these documents were prepared by you in accordance with the instructions which you received last week while testifying here.

A. Could I ask a question off the record?

Trial Examiner Lindsay: Yes.

Mr. Clark: Let us put it on the record. Let us have it on the record.

Trial Examiner Lindsay: Just a minute, Mr. Clark. You may have it on the record.

The Witness: As a matter of clarification that might clarify that list. Not having a copy of the record to check just which way you wanted that prepared, I prepared those to show the members who joined before January 30th and those without any mark are subsequent.

Q. (By Mr. Clark): The question I asked you is this, Mr. Botts. Is this document which I have described to you the result of the work you were requested to do by the Examiner and Mr. Walsh and myself on last Friday, I think it was, when you left the witness stand?

A. It is, to the best of my knowledge.

Q. In doing that, am I correct in stating that instead of indicating on the list the persons that had joined the Associated Farmers of Kings County after January 30, 1939, you in [1758] each instance have indicated in fact those persons who joined before January 30, 1939?

(Testimony of Harold E. Botts.)

A. That is correct.

Q. All right.

And am I also correct in stating that where there is no writing after any name on the list, you intended that to mean that the person after whose name no writing appears joined the Associated Farmers of Kings County after January 30, 1939?

A. That is correct.

Q. All right.

Now, I direct your attention to the letter which you have annexed to this list I have described to you in which you state this: "The names on the attached list which are designated by a check mark joined the Associated Farmers of Kings County, Inc., before January 30, 1939."

Now, by that you refer to the check mark on the left-hand column? A. Yes.

Q. "All other names on this list joined the organization during or after a campaign for membership conducted during the month of February, 1939," and by that do you mean those names before which there are no check marks and after which there is no writing?

A. That is correct:

Mr. Clark: We will ask, Mr. Examiner, that Mr. Botts' [1759] letter of explanation and the list which he has been telling us about be annexed to Board's exhibit already in evidence, and constitutes the membership list.

Is that No. 11, Mr. Walsh?

(Testimony of Harold E. Botts.)

Mr. Walsh: I do not remember.

Mr. Clark: Or whatever number it is.

Trial Examiner Lindsay: Your offer is that the letter attached to that exhibit become part of it?

Mr. Clark: Yes, so they will all be together.

Mr. Walsh: Let us divide them.

Mr. Clark: All right. Let the list which Mr. Botts has prepared be designated as Board's Exhibit 11(a) and the letter, explanatory letter signed by Mr. Botts, be Board's Exhibit 11(b).

Mr. Walsh: No objection.

Mr. Clark: That is all.

Mr. Walsh: I will offer that on behalf of the Board.

Trial Examiner Lindsay: Board's Exhibits 11(a) and 11(b) may be received.

(Thereupon the documents above referred to were received in evidence and marked Board's Exhibits 11(a) and 11(b).)

Mr. Clark: There is one other question I would like to ask this witness before we let him go.

Q. Have you made any computation now, so it may be clear in the record, of the number of members of the Associated Farmers [1760] of Kings County, Inc., on January 30, 1939?

A. As I checked that over, I counted them and there were 162 on the list so marked.

Q. 162 members on that date, is that true?

A. Yes, sir.

(Testimony of Harold E. Botts.)

Q. Can you tell us how many members there are now?

A. I would have to approximate it.

Q. Well, can you tell me how many members there are as shown by this list on March of this year?

A. I don't remember.

Q. You haven't counted them?

A. I haven't counted them. I would have to guess.

Mr. Clark: Very well. That is all.

Mr. Walsh: No questions.

(Witness excused.) [1761]

Mr. Clark: Now, Mr. Examiner, may Mr. Botts be released?

Mr. Walsh: I have no objection to his being released.

Trial Examiner Lindsay: Then he is released.

Mr. Walsh: Mr. Walter Winslow.

WALTER WINSLOW,

recalled to the stand by and on behalf of the National Labor Relations Board, having been previously duly sworn, was further examined and testified as follows:

Trial Examiner Lindsay: You were on the stand?

The Witness: Yes.

(Testimony of Walter Winslow.)

Trial Examiner Lindsay: Let the record show Walter Winslow as being recalled.

Direct Examination

Q. (By Mr. Walsh): Mr. Winslow, did you attend the session of this hearing on Friday, June 2nd? A. I did.

Mr. Clark: Now, just a moment please. Was it our understanding this morning, Mr. Walsh, that my general objections to the reception of any evidence in support of the Board's alleged case against the Associated Farmers of Kings County, Inc., run to all of today's testimony? I think it was.

Mr. Walsh: It may. If we didn't so understand it, it may be so stipulated now.

Mr. Clark: Very well.

Q. (By Mr. Walsh): Were you present at the afternoon session? [1762]

A. I was.

Q. You heard the testimony of Mr. Riley and Mr. Salyer prior to the recess, did you?

A. I did.

Q. Will you state to the Examiner what happened at the recess which occurred just after Mr. Salyer left the witness stand?

Mr. Clark: Let me hear that last question? When was this? Last Friday?

Mr. Walsh: Friday, the recess just after Mr. Salyer's testimony.

Trial Examiner Lindsay: After whose?

Mr. Walsh: Mr. Salyer's.

(Testimony of Walter Winslow.)

Mr. Clark: May I have the question read?

Trial Examiner Lindsay: Yes, read the question.

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: The time being last Friday afternoon, I take it?

Mr. Walsh: Friday afternoon, June 2nd.

Mr. Clark: To which we object, may it please the Examiner, on the ground it is incompetent, irrelevant and immaterial, hearsay, and not binding on any Respondent to this proceeding, and an attempt, apparently, on the part of the Board to impeach a witness called by it on its own behalf. [1763]

I think the record will show that Mr. Salyer was called on behalf of the Board, and certainly not on behalf of any Respondent; and, therefore, anything that happened with respect to his having testified is immaterial and not binding on the Respondents, and absolute hearsay as to them.

I will further add to the objection that no proper foundation has been laid.

Trial Examiner Lindsay: He may answer.

The Witness: Well, right after the recess we went out for a recess, and I stepped off of the steps out there, and as I stepped off—

Q. (By Mr. Walsh) (Interrupting): Indicating

(Testimony of Walter Winslow.)

ing the front of the building in which this hearing is now being held?

A. Yes. As I stepped off, I stopped from the ordinary step that goes down—I stopped to roll a cigarette.

Q. Did you see any persons near you at that time? A. I did.

Q. Will you state who those persons were?

A. Bill Boswell, Lloyd Liggett, Forrest Riley, E. C. Salyer and Clark and Painter.

Q. Now, did you hear any of that group of persons say anything? A. I did.

Q. Will you state to the Examiner just what any one of that [1764] group said?

A. E. C. Salyer said, “I really got them cold, didn’t I?”

Mr. Clark: Said what?

The Witness: “I really got them cold.”

Mr. Clark: May I have that read back?

Trial Examiner Lindsay: Read the answer.

(The record referred to was read by the reporter, as set forth above.)

Mr. Walsh: Repeat the statement, Mr. Witness.

The Witness: “I really got them cold.” [1765]

Q. (By Mr. Walsh): What else did Mr. Salyer say?

A. He said, “We all tell the same story, and the case will have to go just as we tell it.”

Q. Did anybody else say anything?

A. At that time they all had a laugh over it.

(Testimony of Walter Winslow.)

Q. Did anybody else say anything?

A. And Lloyd Liggett said, "I am going to get up and tell the same story that you guys told and get plenty tough with them."

Q. Then what happened?

A. Well, I walked on. I had my cigarette rolled then and walked on.

Mr. Walsh: That is all.

Mr. Clark: I have only one thing to say, Mr. Examiner, and that is that that is a deliberate lie.

Trial Examiner Lindsay: That will do.

Mr. Clark: I say, that is a deliberate lie, and I am stating so that it will appear in the record.

Trial Examiner Lindsay: Mr. Clark, I was not directing my remark to you, and I wasn't looking at you. I was directing my remark to those that were laughing out there.

Mr. Clark: May I cross examine?

Mr. Walsh: Yes.

Trial Examiner Lindsay: Yes. [1766]

Cross Examination

Q. (By Mr. Clark): Mr. Winslow, is it your testimony that I was standing present in a group of people within hearing of the remarks which you attribute to Mr. Salyer and Mr. Riley?

A. You was.

Mr. Clark: That is all.

Mr. Walsh: That is all. Step down.

(Witness excused.)

Mr. Walsh: Mr. Louie Hanson.

Mr. Clark: That is without doubt, Mr. Examiner, one of the dirtiest pieces of perjury and aid in that connection on the part of the people who are responsible for putting that person on the stand that I have ever had the opportunity of listening to.

Mr. Walsh: Mr. Examiner, I am not arguing my case at this time.

Mr. Clark: Your understanding of the ethics of this profession, Mr. Walsh, is very strange to me.

Trial Examiner Lindsay: Well, I am not making any comment on it at all, and, of course——

Mr. Clark (Interrupting): There will be plenty of comment made if you think I am going to rest with an argument like that.

Trial Examiner Lindsay: You and anyone else have a right [1767] to comment. That is all.

LOUIS A. HANSON

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh): Will you state your name, please?

A. Louis A. Hanson.

Q. Where do you live?

A. Five miles south of Corcoran.

Q. And what is your business?

(Testimony of Louis A. Hanson.)

A. Farming and cattle feeding.

Q. Are you a member of the Associated Farmers of Kings County, Inc.? A. Yes, sir.

Q. Directing your attention to January 30, 1939, which has been identified as the date on which some of the pickets were asked to leave the Boswell plant, I will ask you if you were present on that day?

A. I drove up there in a car; yes, sir.

Q. About what time did you arrive, Mr. Hanson?

A. I don't know. There was a crowd around the car when I drove up there.

Q. Did you get out of the car?

A. No, sir. [1768]

Q. Did you talk to anybody there?

A. Not a word.

Q. How long did you remain?

A. I drove off before the crowd dispersed. I don't know. I was probably there possibly ten or fifteen minutes; maybe not that long; possibly ten minutes.

Q. Did you see a number of people there?

A. There was quite a crowd there; yes, sir.

Q. About how many would you estimate were present?

A. It would be hard to say. I would say 50 or 75 possibly. I never paid particular attention.

Q. Did you recognize any of the persons there?

A. I never paid any particular notice as to who was there. There was just a crowd.

Q. Did you notice what was going on?

(Testimony of Louis A. Hanson.)

A. No, just a crowd around the car. I don't know what was going on. I wasn't close enough to hear even any of the conversation.

Q. Did you talk to any of the persons present at all? A. No, sir, I never left my car.

Q. Did you make any inquiry of anyone as to what was happening? A. Not at that time.

Q. Had you been at the Salyer ranch previous to that time?

A. I was out there that morning for a little while; yes, sir. [1769]

Q. Do you recall what time you arrived there?

A. No, I wouldn't say.

Q. How did you happen to be at the Salyer ranch?

A. I heard there was a gathering there from the conversations along the street in town.

Q. Yes.

Did anyone tell you what the gathering was about?

A. Yes, they said it was about the strike being called, or something, down there at the Boswell place. I went out there more out of curiosity than anything.

Q. Did you have any cotton in the warehouse at that time in the Boswell gin? A. No, sir.

Q. Did you know the people that were at the Boswell ranch? A. At the Boswell ranch?

Q. I am sorry. The Salyer ranch.

A. I knew a few of the men, yes. They were farmers around this country.

(Testimony of Louis A. Hanson.)

Q. Who did you see out there?

A. Oh, I could identify a few. I think Salyer— Mr. Salyer himself, and Riley, and possibly Mr. Liggett. I didn't pay any particular notice, just a bunch of them there.

Q. Did you talk to anybody there at that time?

A. No, I didn't discuss it with anyone.

Q. Did you overhear any conversations there?

A. No. [1770]

Q. (By Mr. Walsh): Did you leave the ranch at the same time as the rest of the men did?

A. No, I left before they did.

Q. Did you know where they were going?

A. I understood, yes. That is the reason I drove, later on I drove down there to see just what was happening.

Q. What was said there that would indicate to you what these men were doing?

A. Well, as I understood, they were going down to talk to the men that were picketing. That is all.

Q. Well, do you recall at this time any remark of any person that would indicate that that was what they were going to do? A. No, I don't.

Q. Did you see any persons at the Boswell gin that you didn't know?

A. That I didn't know?

Q. Yes.

A. Yes. There is a lot of men around that I don't know.

(Testimony of Louis A. Hanson.)

Q. Well, did you see any at this gathering that you didn't know?

A. Yes. I seen some I didn't know. A lot of the men called me by my first name, and I don't even know them.

Q. Can you recall now anyone who you saw at the gin that morning that you haven't told us about?

A. No, I don't. I paid no particular notice as to personally [1771] who was there.

Q. Now, did you attend the barbecue held at the Salyer ranch that night?

A. I didn't get to the barbecue, no, sir. I did not have time to go over there. I was there at the last part of the meeting. There was a man speaking. I was there part of the time and I left, but I couldn't stay on.

Q. Do you recall who the speaker was at that time?

A. No. I didn't know him. I never saw the man before.

Q. Did you do any work for the Boswell Company yourself?

A. No, sir.

Q. Do you have any financial business with them?

A. No.

Q. Have you, within the last year, had any financial transactions with the Boswell Company?

A. Just what do you mean by "financial transactions?"

(Testimony of Louis A. Hanson.)

Q. I mean have you sold them any of your farm products or financed any of your crops through them?

A. I haven't financed any crops through them; never have. I have sold them some produce at times, I think some hay once or twice to the cattle yard down there, just as a business transaction. I have never had any financing, that is, financing with them at all. I have bought some cotton seed occasionally from them for my seed mill.

Q. Do I understand that a meeting followed the barbecue and [1772] you didn't get there for the barbecue itself, but you did just for the meeting?

A. Well, there was a speaker there. I imagine that is what you would call a meeting.

Q. Was there quite a large group of men there?

A. Quite a number, yes.

Q. About how many would you estimate?

A. Oh, I imagine there was one hundred or more; maybe more. I didn't pay particular notice.

Mr. Walsh: That is all.

Cross Examination

Q. (By Mr. Clark): Mr. Hanson, will you please tell us whether or not your going to the Boswell plant on the morning of January 30th, 1939, was the result of any direction that you received from the Associated Farmers of Kings County?

A. No, sir.

Q. Was it as the result of any suggestion or in-

(Testimony of Louis A. Hanson.)

invitation received by you from the Associated Farmers of Kings County? A. No, sir.

Mr. Clark: That is all.

Mr. Walsh: That is all.

(Witness excused.)

Mr. Walsh: Mr. Archer.

GROVER TAYLOR ARCHER

a witness called by and on behalf of the National Labor Re- [1773] lations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh): Will you state your name, please? A. Grover Taylor Archer.

Q. Where do you live, Mr. Archer?

A. Here in town.

Q. In Corcoran? A. Yes, sir.

Q. What is your business or occupation?

A. Farming; cattle and sheep, warehouse, trucks; numerous things of that kind.

Q. Do you operate a farm yourself?

A. Yes, sir.

Q. How many acres do you operate?

A. In all about 2500, I guess.

Q. And what are the products that you raise?

A. All kinds of farm products that we grow here, and some pasture land.

(Testimony of Grover Taylor Archer.)

Q. Including cotton? A. Yes.

Q. Hay and grain? A. Yes.

Q. Directing your attention to the 30th day of January, 1939, which has been identified as the day upon which several of the [1774] pickets were asked to leave the Boswell gin, were you present at the Boswell gin that morning? A. I was.

Q. Will you tell the Examiner just what you saw and that you heard there?

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial, hearsay as to the Respondents in this proceeding.

Trial Examiner Lindsay: He may answer.

Q. (By Mr. Walsh): I ask you, first, are you a member of the Associated Farmers of Kings County? A. Yes.

Q. Now, will you answer my previous question, please?

A. May I have the question again, please?

Mr. Walsh: Would you read it, please, Mr. Reporter?

(The pending question was read by the reporter, as set forth above.)

The Witness: Well, I drove out there and parked near the scale house. The picket car was near the scale house there, probably 30 or 40 feet from it, and there was quite a crowd there. I wasn't very near the picket car, probably—right near the scale house. There was a crowd between the scale house and the picket car. I wasn't—I don't believe

(Testimony of Grover Taylor Archer.)

over 25 or 30 feet from the picket car. That was the closest you could get there handy. [1775]

Q. (By Mr. Walsh): Did you hear anyone say anything there at that time?

A. No, I did not.

Q. Did you recognize any of the people you saw there?

Mr. Clark: Same objection, Mr. Examiner.

May I ask that it run to this entire line of testimony?

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: Yes. He may answer.

The Witness: Well, I think I remember Salyer there and another man, I think if I remember right, stood near me nearby the scale. Mr. George Cutter stood there when I was there. I think that is about all I remember at this time.

Q. (By Mr. Walsh): Had you been to the Salyer ranch that morning? A. I had.

Q. How did you get notice—was there a group of people out there? A. There were.

Q. How did you get notice that there was going to be a meeting out there?

A. Well, it was—I picked it up down town, somebody talking about it and asked me if I was going out there, and I went, but I didn't know what I was going for when I went out there. There was going to be a meeting there.

Q. Did you hear any talk out there? [1776]

A. No. I got there just a minute or two before

(Testimony of Grover Taylor Archer.)

the crowd was leaving, and I didn't hear anything there only that they were going to Boswell's from there, and that is where we went. [1777]

Q. Did you know what they were going for, what purpose they were going down to Boswell's?

A. Well, there was something said about getting rid of the pickets, but I don't know whether it was an attempt to get rid of them or get rid of them. I couldn't say.

Q. Now, did you attend the meeting at the Salyer ranch that night? A. Yes.

Q. Attend the barbecue? A. Yes.

Q. Quite a substantial crowd there?

A. Yes, sir.

Q. Did they have speakers?

A. I believe they did, yes.

Q. Do you know the names of the people who spoke?

A. I was interested in the barbecue and feed more than anything else. We were busy in the kitchen.

Q. You were helping prepare the food and things of that kind? A. Yes.

Q. How did you get notice that there was going to be a barbecue?

A. I couldn't tell you now. I don't remember. The fact is, there is very few barbecues here in this community, of any size, speaking, that I usually don't help on.

Q. You usually help on all barbecues? [1778]

(Testimony of Grover Taylor Archer.)

A. Yes.

Mr. Walsh: That is all.

Trial Examiner Lindsay: May I ask one question?

Mr. Clark: Yes, indeed.

Trial Examiner Lindsay: Or two.

Q. Did you talk with Mr. Cutter that day?

A. I believe I did. He was right there near me.

Q. How long have you known Mr. Cutter?

A. For a long time; twenty years.

Q. Were you and he by yourself off from the rest of them?

A. Not far away, just near them there.

Q. Were you right up close to some of the crowd?

A. Well yes, probably eight or ten feet away. I believe the conversation—he came there, seemed like not knowing what it was all about or anything. I believe he asked me what was going on there. He just came there apparently not knowing what was going on.

Q. Does he know you, who you are?

A. Mr. Cutter?

Q. Yes. A. Yes.

Q. How long have you known Mr. Cutter?

A. Twenty years.

Q. Had dealings with him?

A. Yes. [1779]

Q. Have you been friendly all that twenty years? A. Yes.

(Testimony of Grover Taylor Archer.)

Trial Examiner Lindsay: That is all.

Cross Examination

Q. (By Mr. Clark): Mr. Archer, will you please tell us whether or not you went to the Boswell plant on the morning of January 30 of this year as the result of any direction to you by the Associated Farmers of Kings County?

A. I did not.

Q. Did you go to the Boswell plant on that occasion as a result of any suggestion or invitation to you from the Associated Farmers of Kings County?

A. I did not.

Mr. Clark: That is all.

Mr. Walsh: Mr. Examiner, might I renew my direct examination? I have a series of questions that I forgot to ask Mr. Archer?

Trial Examiner Lindsay: Yes.

Redirect Examination

Q. (By Mr. Walsh): Mr. Archer, I will read over a list of names and I will ask you to tell me if you remember having seen any of these men at the Boswell plant or gin on January 30, 1939.

Roland Bailey? If you didn't see them just tell me no, and if you did, just tell me yes. [1780]

A. What is the name?

Q. Roland Bailey.

A. I don't believe I know him.

Q. Mose Bailey? A. I never saw him.

Q. I believe you told us about George Cutter.

A. Yes.

(Testimony of Grover Taylor Archer.)

Q. Roy Filcher? A. No.

Q. Ralph Gilkey? A. No.

Q. Ralph Gilkey? A. No.

Q. Raymond Gilkey? A. No.

Q. Walter Grisham?

A. (Pause) I don't know him by that name.

Q. Well, do you recognize that man by some other name?

A. No; probably by sight I might know him.

Q. I thought maybe he might have a nickname.

A. No.

Q. Louie Hanson?

A. No, I didn't see Louie.

Q. Phil Hanson? A. No. [1781]

Q. J. W. Hubbard?

A. No, I don't believe I did.

Q. Slim Jones? A. No.

Q. Lloyd Liggett you have already told us about?

A. I don't believe I did, but I can say now that I saw him there.

Q. I am sorry. I thought you said you had seen him.

Q. Joe Mackey? A. No.

Q. Ralph Marshall? A. No.

Q. Forrest Riley?

A. I believe that I saw Forrest there, yes.

Q. E. C. Salyer?

A. I have already stated I saw him.

Q. Yes, you did.

Garland Salyer?

(Testimony of Grover Taylor Archer.)

A. I don't remember seeing him.

Q. Was Everett Salyer there?

A. Don't remember.

Q. Glen Sego?

A. I don't remember seeing him there.

Q. Ronald Squire? A. No. [1782]

Q. William Turner?

A. No, I don't believe I did.

Q. Robert Wilbur?

A. If that is his name, yes.

Q. There has been some talk about Robert Wilbur and Bill Wilbur.

A. Well, I don't know the difference between them. I know one Wilbur. I am pretty sure he was there, but I don't know which one it was.

Q. Was there a Bill Willoughby there?

A. No.

Q. You did not see him? A. No.

Q. Brice Sherman?

A. No, I never saw Brice there.

Q. Russell Slaybough? A. No.

Q. Now, is there anyone else there that you haven't named that you can think of now?

A. I couldn't. I don't think of anyone that I know of that I haven't mentioned.

Q. Now, may I direct your attention again to the meeting out at the farm, the Salyer ranch, before you came down. Do you know who it was that determined that they would all go down, or announced that they would all go down and see the [1783] pickets? A. No.

(Testimony of Grover Taylor Archer.)

Mr. Clark: Objected to—what is the answer?

Mr. Walsh: The answer is “No.”

Trial Examiner Lindsay: Do you want the objection now?

Mr. Clark: No. I withdraw the objection.

Q. (By Mr. Walsh): Do you know whether any spokesman for your group was decided upon?

Mr. Clark: Just a minute. I object to that on the ground it is assuming something not in evidence, that there is any “your group” at all.

Mr. Walsh: I will amend it.

Q. Was there any spokesman decided upon for the group that were there?

A. No, I don't believe there were. I was just there a little bit before the crowd left, just got in there.

Mr. Walsh: That is all.

Mr. Clark: No further questions.

Trial Examiner Lindsay: I have just one.

When I was asking you those questions about your conversation with Mr. Cutter, I was referring to the morning of January 30, 1939, down at the Boswell plant.

The Witness: That is right.

Trial Examiner Lindsay: You understood me?

The Witness: Yes. [1784]

Trial Examiner Lindsay: That is all.

Mr. Walsh: Thank you, Mr. Archer. You may be excused.

(Witness excused.) [1785]

Mr. Walsh: Raymond Gilkey.

RAYMOND GILKEY

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh): Will you state your name, please? A. Gilkey; Raymond Gilkey.

Q. Where do you live, Mr. Gilkey?

A. Corcoran.

Q. What is your business or occupation?

A. Farming.

Q. Are you a member of the Associated Farmers? A. Yes, sir.

Q. Of Kings County? A. I am.

Q. Directing your attention to January 30th, 1939, which has been identified as the date upon which some of the pickets were asked to leave the Boswell gin, were you present at the Boswell gin that morning?

A. I went down there that morning, yes.

Q. Had you been at the Sayler ranch previous to that? A. No, I was not.

Q. How did you happen to get notice of the gathering at the Boswell gin? [1786]

Mr. Clark: Objected to as incompetent, irrelevant and immaterial, hearsay as to the Respondents, and may that objection run to this entire line of testimony?

(Testimony of Raymond Gilkey.)

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: Yes. He may answer.

The Witness: I don't remember now, just heard about the crowd being down there and went down.

Q. (By Mr. Walsh): You had been up in town in Corcoran, had you, when you received that message? A. I think so, yes.

Q. Do you recall who told you?

A. No, sir, I do not.

Q. Do you recall about what time it was that you arrived down at the Boswell gin?

A. I think it was about noon.

Q. Was there a crowd of people down there?

A. Quite a crowd down there, yes, sir.

Q. What is your estimate of the size of the crowd?

A. Oh, I don't know; probably between 40 and 60 of them.

Q. Were the pickets who were being asked to leave still there when you arrived?

A. They were just leaving when I got there.

Q. Did you see more than one automobile with pickets in it, or were there two?

A. Just the one. [1787]

Q. Did you hear any conversation there?

A. No.

Q. Hear any talking? A. No.

Q. Did you stop and inquire of any person in the gathering what was going on? A. No.

Q. Did you recognize anyone there?

(Testimony of Raymond Gilkey.)

A. Just a few that I knew there.

Mr. Clark: May I hear the last answer there, Mr. Examiner?

Trial Examiner Lindsay: Yes. Read the answer. I didn't hear it either.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh): Will you tell us who you recognized at the gathering?

A. Well, I saw Mr. Salyer there and Ben Wilbur.

Mr. Clark: Bob Wilbur?

The Witness: I think it was Bob Wilbur, and well—I don't know. There were quite a bunch of them there.

Q. (By Mr. Walsh): I will read a list of names and ask you whether or not you saw any of these people at the Boswell gin on January 30th, 1939, and if you did not see them there, just say that you didn't see them. A. Yes. [1788]

Q. Roland Bailey?

A. No, I didn't see him.

Q. Roy Filcher?

A. I don't remember him.

Q. Ralph Gilkey?

A. No, I didn't see him.

Q. He is your brother, is he not?

A. That is right.

Q. Walter Grisham? A. No.

Q. Phil Hanson?

(Testimony of Raymond Gilkey.)

A. No, I didn't see him either.

Q. J. W. Hubbard? A. No.

Q. Slim Jones? A. No.

Q. Lloyd Liggett?

A. I don't remember of him.

Q. Joe Mackey?

A. I don't remember seeing him, either.

Q. Ralph Marshall?

A. I did see him there.

Q. Forrest Riley? A. I saw him there.

Q. Garland Salyer? [1789]

A. Who?

Q. Garland Salyer? A. That is the boy?

Q. I believe it is the brother, the brother of
E. C. A. No, I didn't see him there.

Trial Examiner Lindsay: Pardon me. Off the
record. Off the record a moment.

(Discussion outside the record.)

Q. (By Mr. Walsh) Did you see Everett Sal-
yer there? A. No.

Q. Glen Sego? A. No, I don't know him.

Q. Ronald Squire?

A. No, I didn't see him there.

Q. William Turner?

A. No, I didn't see him either.

Q. Robert Wilbur?

A. I think he was there.

Q. Brice Sherman?

A. I do not remember of him.

Q. Russel Slaybough?

(Testimony of Raymond Gilkey.)

A. I don't remember seeing him there.

Q. Did you go to the barbecue that was held that night at the Salyer ranch?

A. Yes, I was. [1790]

Q. How did you get notice of the barbecue?

A. I don't remember now,—I don't know how I got word of that.

Mr. Clark: I think the witness said he went over there anyway.

Trial Examiner Lindsay: Is that right?

The Witness: That is right.

Q. (By Mr. Walsh) Were there speakers there that night? A. Oh, yes.

Q. At a meeting after the dinner, is that correct? A. Yes.

Q. How large a crowd was there?

A. Well, I don't know. I imagine a hundred or 150.

Q. Are you a member of the City Council of Corcoran? A. Yes, sir.

Q. Did the gathering of the people down at the Boswell plant take place within the city?

Mr. Clark: I object to that on the ground it is incompetent, irrelevant and immaterial. Certainly the City of Corcoran isn't a respondent here. What culpability can there be established by that, Mr. Examiner?

Trial Examiner Lindsay: He may answer.

The Witness: What was the question?

Trial Examiner Lindsay: Read the question.

(Testimony of Raymond Gilkey.)

(The question referred to was read by the reporter, as [1791] set forth above.)

The Witness: I do not remember anything about that.

Q. (By Mr. Walsh) Is the Corcoran—strike that.

Is the Boswell plant within the city limits of Corcoran? A. Part of it is.

Mr. Clark: The same objection to that question, Mr. Examiner.

Trial Examiner Lindsay: Well——

Mr. Clark (Interrupting): I move to strike it on the same ground.

Trial Examiner Lindsay: All right. It may remain.

Mr. Walsh: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Gilkey, do you happen to know where your brother Ralph was on this day?

A. No, I don't know. I don't know anything about it.

Q. You didn't see him down at the plant?

A. I didn't see him down at the plant.

Q. What is that?

A. I didn't see him there.

Q. Now, you weren't a member of the Associated Farmers on January 30th of this year, were you? A. No, I was not.

(Testimony of Raymond Gilkey.)

Q. Do you remember about when it was that you joined?

A. It was some time in February. I don't remember. [1792]

Q. Do you know a man by the name of Roland Bailey? A. (Pause)

Q. The name Roland Bailey was mentioned to you or given to you by Mr. Walsh. Do you know any person of that name? A. No, I don't.

Mr. Clark: That is all.

Trial Examiner Lindsay: That is all.

Mr. Walsh: May I ask the witness one more question? You don't need to take the stand.

Did you have any cotton in the warehouse down there at that time?

The Witness: No.

(Witness excused.)

Mr. Walsh: Walter Grisham.

Mr. Clark: May it be understood, Mr. Examiner, if I said simply "Associated Farmers" in that question, it can be taken to mean Associated Farmers of Kings County?

Trial Examiner Lindsay: Oh, yes.

Mr. Walsh: Oh, yes, I will stipulate to that.

Mr. Clark: In other words, the respondent to this proceeding.

Mr. Walsh: That is right.

Trial Examiner Lindsay: Yes. [1793]

WALTER EDWARD GRISHAM

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Will you state your name, please? A. Walter Edward Grisham.

Q. Where do you live, Mr. Grisham?

A. Out at Dallas District.

Mr. Clark: In Kings County?

The Witness: Yes.

Q. (By Mr. Walsh) That is not in the City of Corcoran? A. No.

Q. What is your business or occupation?

A. Farming.

Q. Were you on January 30, 1939, a member of the Associated Farmers of Kings County?

A. Yes, sir.

Q. Directing your attention to January 30, which has been the day identified as the day the pickets were asked to leave the Boswell plant, I will ask you whether or not you attended a meeting at the Salyer ranch in the morning.

A. I was down there.

Q. Were there a number of other people there?

A. Yes, sir. [1794]

Q. About how many?

A. Oh, possibly 75 or 100.

Q. How did you get notice the meeting was to be held?

(Testimony of Walter Edward Grisham.)

Mr. Clark: May my objection that it is incompetent, irrelevant and immaterial and hearsay be likewise deemed to run to the entire testimony of this witness?

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: Yes, and he may answer.

The Witness: What was the question?

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: Mr. Bob Wilbur asked me to come down.

Q. (By Mr. Walsh) Do you know—did Mr. Wilbur tell you why the meeting was to be held?

A. No, sir.

Q. Did you—can you tell us about what time you arrived there, Mr. Grisham?

A. No, I can't. It was some time in the morning. It was—the meeting down there was practically over with when I got down there.

Q. Do you recall who you saw there on that morning?

A. Well, I saw Bob Wilbur, Mr. Salyer, Bill Wilbur.

Q. Did you talk with them there?

A. No, I didn't talk with anyone. [1795]

Q. Did you hear any conversation there at all, or any talking there?

A. Well, Mr. Wilbur was talking when I got

(Testimony of Walter Edward Grisham.)

there, but it was over with about the time I got there.

Q. Was he making a talk to the group generally? I mean, in the nature of making a speech?

A. Well, something to that effect, yes.

Q. Which Wilbur was that, Mr. Grisham?

A. Bob Wilbur.

Q. Do you recall what Mr. Bob Wilbur said?

A. No, I don't.

Q. In general? I don't ask you to repeat his words.

A. Well, it was to the effect that—inviting the pickets to leave. We didn't feel like that was the right thing to do.

Q. I didn't quite understand that answer, Mr. Grisham.

Mr. Clark: May we have it read back?

Trial Examiner Lindsay: Yes, read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh) I don't quite understand what you mean by "We didn't feel that that was the right thing to do."

What wasn't the right thing to do, Mr. Grisham?

A. We didn't feel they had done right at all.

Q. You are referring to the pickets, is that it? [1796]

A. Yes.

Q. Did anyone state, or—strike that.

What was said with reference to leaving the Salyer ranch and going down to the gin, the Boswell gin, if anything?

(Testimony of Walter Edward Grisham.)

A. I don't recall anything being said.

Q. Did anyone act as the leader of the group?

A. Well, I think that probably Bob Wilbur and Bob Liggett were more or less the leaders.

Q. Yes.

Now, how did you get from the Salyer ranch down to the Boswell gin?

A. In my automobile.

Q. Did you take anybody with you?

A. I didn't.

Mr. Clark: May I have that answer?

Trial Examiner Lindsay: Yes.

The Witness: I didn't.

Q. (By Mr. Walsh) Will you tell us now what occurred when you arrived down at the Boswell Gin?

A. Well, the cars gathered around there and they asked the pickets to leave.

Q. Do you recall what words anyone used or just what was said or who said it?

A. Well, not exactly, no. It was to the effect that they [1797] didn't feel that they ought to be there.

Q. Did you hear anyone tell them to get out of the San Joaquin Valley? A. I did not.

Q. Now, did the pickets leave? A. They did.

Q. You remained there until after the pickets had driven away, is that right? A. Yes, sir.

Q. Did you see more than one car of pickets?

A. Yes, sir.

Q. Did you recognize any of the boys that were engaging in picketing? A. One.

(Testimony of Walter Edward Grisham.)

Q. Which one did you recognize?

A. Steve Griffin.

Q. Did you talk to him?

A. I did not.

Q. Did you see the second car drive up?

A. I did.

Q. Did you recognize any of the boys in that car?
A. No, I don't know them.

Q. You didn't know them? A. No.

Q. Did you see anybody open the door on the second car? [1798] A. I didn't.

Q. I will read a list of names, Mr. Grisham, and ask you whether or not you saw any of these people at the Boswell gin on January 30, 1939.

Roland Bailey?

A. I don't know him.

Q. Do you know a Mose Bailey? A. No.

Q. Roy Filcher? A. I did not see him.

Q. Ralph Gilkey? A. No.

Q. Phil Hanson?

Mr. Clark: May I have the answer, please?

Trial Examiner Lindsay: Yes.

Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Mr. Clark: The answer is no?

The Witness: No.

Q. (By Mr. Walsh) Phil Hanson?

A. No.

Q. J. W. Hubbard? A. No.

(Testimony of Walter Edward Grisham.)

Q. Slim Jones? [1799]

A. I don't know him.

Q. Lloyd Liggett? A. Yes.

Q. Joe Mackey? A. No.

Q. Ralph Marshall? A. No.

Q. Garland Salyer? A. No.

Q. Glen Segó?

A. Well, there was a Segó there. I don't know if his name was Glen. They call him "Doc."

Q. "Doc." You don't know if that would be the same man you saw or not?

A. I do not know.

Q. Ronald Squire? A. I do not know.

Q. William Turner? A. No.

Q. Brice Sherman? A. No.

Q. Russel Slaybough? A. No.

Q. Clifford Hammond? A. No. [1800]

Q. Do you farm your own farm, Mr. Grisham?

A. No, sir.

Q. For whom do you farm?

A. Mr. Boswell.

Q. You run one of Mr. Boswell's farms?

A. By contract.

Q. Contract? A. Yes. [1801]

Q. What do you mean by contract? Is that leasing his land? A. No, sir.

Q. Will you explain it to me, please? I don't know. A. He pays me so much an acre.

Q. To farm the land?

A. To farm the ground.

(Testimony of Walter Edward Grisham.)

Q. How long have you been farming it for him?

A. '36, just four years.

Q. Four years? A. Yes.

Q. How much land does that involve?

A. About 1300 acres.

Q. You said Mr. Boswell. Which Mr. Boswell? William or J. G.? A. Mr. J. G.

Q. Do the—well, under this system of contracting, Mr. Grisham, does Mr. Boswell own the crop?

A. Yes, sir.

Q. I see.

Can you recall what Bob Wilbur said to you at the time he told you there was going to be a meeting at the Salyer ranch?

A. He didn't tell me there was going to be a meeting. He said, "Come down."

Q. To the Salyer ranch? A. Yes. [1802]

Q. Did he state that other people were going to be there? A. He didn't.

Q. Did you attend the barbecue that night at the Salyer ranch? A. Yes, sir.

Q. How did you find out there was going to be a barbecue?

A. Well, I really don't know. I didn't know about it until that day. I think somewhere in town I heard about it.

Q. Do you recall who told you?

A. No, I don't.

Q. Did they have speakers there that night?

A. Yes, they did.

Q. Do you recall who the speakers were?

(Testimony of Walter Edward Grisham.)

A. I believe there was a Mr. Martin—I wouldn't say positively that is his name, some speaker they had.

Q. A gentleman by the name of Martin, you believe?
A. I believe that was his name.

Mr. Walsh: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Grisham, do you know Russel Slaybough?
A. Yes, sir.

Q. How long have you known him?

A. Since '37.

Q. I see.

And have you had occasion to see him from time to time? [1803]
A. Yes, sir.

Q. Was he there at the Boswell plant, so far as you saw, on this morning of January 30th?

A. No, sir.

Q. Now, do you know Brice Sherman?

A. Yes, sir.

Q. And are you likewise well acquainted with Brice Sherman?
A. Yes, sir.

Q. Did you see Brice Sherman there that morning?
A. No, sir.

Q. Do you know Joe Mackey?
A. Yes, sir.

Q. And how well acquainted are you with Joe Mackey?
A. I know him pretty well.

Q. I see.

In other words, you wouldn't make any mistake so far as identifying him, would you?

A. I don't think so.

(Testimony of Walter Edward Grisham.)

Q. Did you see Joe Mackey there that morning?

A. I didn't.

Q. Now, do you know Everett—is the first name Everett?

Mr. Painter: Yes.

Q. (By Mr. Clark) Do you know Everett Salyer? A. Yes, sir.

Q. That is E. C. Salyer's son? [1804]

A. Yes.

Q. Did you see him there that morning?

A. I didn't.

Q. And you would know him if you saw him, wouldn't you? A. Yes, sir.

Q. Do you know Ralph Gilkey?

A. Yes, sir.

Q. And how well do you know Ralph Gilkey?

A. Well, not as well as I do the other fellows.

Q. Are you sure you would identify him if you saw him? A. Yes, sir.

Q. Did you see him there that morning?

A. No, sir.

Mr. Clark: That is all.

Trial Examiner Lindsay: You are all through with this witness, I take it?

Mr. Clark: We are, yes.

Mr. Walsh: Yes, he may be excused.

Trial Examiner Lindsay: Is he excused from the hearing?

Mr. Clark: So far as I am concerned.

Mr. Walsh: So far as I am concerned.

(Testimony of Walter Edward Grisham.)

Trial Examiner Lindsay: You are excused, then, Mr. Grisham.

(Witness excused.)

Mr. Walsh: Mr. Hubbard. [1805]

JAMES W. HUBBARD

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Will you state your name, please? A. James W. Hubbard.

Q. And what is your business or occupation?

A. I work for Mr. Boswell as a farmer.

Trial Examiner Lindsay: Pardon me. I didn't get the name.

The Reporter: James W. Hubbard.

Q. (By Mr. Walsh) In what capacity do you work for Mr. Boswell?

A. Farmer. I look after the farms.

Q. You are the man that looks after all of Mr. Boswell's farms in this region?

A. The Boswell Company farms, not Mr. Boswell personally.

Q. I see.

Are you a member of the Associated Farmers of Kings County, Inc.? A. Yes.

Q. And were you on January 30th?

(Testimony of James W. Hubbard.)

A. Yes.

Q. Directing your attention to January 30th, 1939, which has [1806] been identified as the day the pickets were asked to leave the Boswell gin, did you attend a meeting at Mr. Salyer's farm or ranch that morning?

A. I did not.

Q. Were you one of a number of people who were at the Boswell gin later,—or in the morning of that day?

A. I was there working.

Q. In the Boswell plant?

A. In the office.

Q. In the office?

A. Yes.

Q. Did you see this group of people gathered?

A. I saw them while they were there, just a short time before they left, through the window from the office.

Q. Did you leave the office?

A. No, I did not.

Q. Did you—you did not go out and mingle with the group, is that right?

A. I did not leave the building.

Q. Did you see what was happening out there in the street?

A. Just as I looked out the window the picket car was driving away.

Q. Had you seen the group of people in their automobile drive up to the picket car?

A. I didn't see them arrive, no, sir. I was working. I heard [1807] a noise, and I looked out the window to see what it was about. I saw the picket car was just driving away.

(Testimony of James W. Hubbard.)

Q. Did you see more than one car containing pickets? A. I did not.

Q. Did you recognize any of the people who were out there in the road?

A. I couldn't say definitely any particular person was there. There was quite a group, and I was looking to see what was going on, and wasn't particularly interested in who was there.

Q. Yes.

How far is it from the window through which you were looking to the point where the picket car was located? A. I judge two hundred feet.

Q. How did you recognize the picket car driving away?

A. Well, the car that was parked beside the post drove away, and that is the car that usually held the pickets.

Q. Had you seen it there from time to time before that? A. Yes.

Q. Did you attend a barbecue held at Mr. Salyer's ranch that night?

Mr. Clark: Objected to upon the ground it is incompetent, irrelevant and immaterial, and may that and also the hearsay objection be deemed to run to this entire line of testimony?

Mr. Walsh: So stipulated. [1808]

Trial Examiner Lindsay: Yes, he may answer.

Do you understand the question?

The Witness: No.

Trial Examiner Lindsay: Read the question.

(Testimony of James W. Hubbard.)

(The question referred to was read by the reporter, as set forth above.)

The Witness: I don't remember. I attended a barbecue at Mr. Salyer's one night. I don't remember what night it was. I don't believe it was the night of January 30th.

Q. (By Mr. Walsh) You mean it was——

A. (Interrupting): Sometime later, I believe.

Q. Sometime later?

A. I recall being at a barbecue at Salyer's.

Q. Well, was the barbecue that you attended held by the Associated Farmers?

A. Yes, I believe it was. There was quite a public gathering. In fact, they had some entertainment. Mrs. Hubbard played the piano.

Q. Can you tell us who any of the speakers were, Mr. Hubbard?

A. One person I remember definitely—I don't know his name—but he was a minister from somewhere over on the West side, I believe, Lindsay or Porterville. He was a Russian, and I remember his talk very definitely. It was a rather vivid discussion of the happenings in Russia when he left there during the Revolution. I remember that very definitely. [1809]

Mr. Walsh: I will stipulate, counsel, this is not the meeting of January 30th that he is testifying to, if you desire.

Mr. Clark: Very well. I will accept that stipulation.

(Testimony of James W. Hubbard.)

Was the Minister's name Penner?

The Witness: Penner. I am pretty sure that is the name.

Mr. Walsh: Excuse me just a moment.

(Conference between counsel.)

Q. (By Mr. Walsh) When you looked out the window from your office, did you notice anyone pushing the picket car?

A. I don't recall anyone pushing. I believe the car was in motion.

Q. When you first saw it?

A. About the time I first looked out. I wouldn't be sure, but I don't recall any pushing.

Q. Had you seen Lloyd Liggett that morning?

A. I don't recall seeing him definite. I see him every few days around the office. If I saw him, it was on official business, his company business.

Q. You are the person of the Company with whom Mr. Liggett deals, are you not?

A. Well, sometimes.

Q. I see.

A. Just for advice regarding farming is all.

Q. What is the character of the advice that Mr. Liggett seeks [1810] from you?

A. Not very much.

Q. When he does, what is the nature of the problem that he is bothered with?

A. He might ask me to look at his cotton to see if it needs irrigating, something like that.

(Testimony of James W. Hubbard.)

Q. Under the terms of the business relations between the Company and Mr. Liggett, is it your duty to go and give him that advice, or is that in the nature of a neighborly thing?

A. I do with all of the customers; I give my best advice.

Mr. Walsh: I see. You may examine.

Cross Examination

Q. (By Mr. Clark): Mr. Hubbard, as I understand it, you did not leave the office building at any time during this disturbance at the Boswell plant on the morning of January 30th?

A. That is right.

Q. And if Mr. Liggett talked with you earlier that morning, as I understand it, it would only be about some matter of farming advice, is that true?

A. That is right.

Q. Am I correct in stating that you are entirely positive that Mr. Liggett did not talk to you earlier that morning concerning this disturbance which later occurred?

A. Yes.

Q. That is, he did not talk to you? [1811]

A. He did not.

Mr. Clark: All right.

May I ask one further question on cross?

Mr. Walsh: Yes.

Q. (By Mr. Clark): Were there any other people looking through the window with you from the office, at the time you did that on that morning?

(Testimony of James W. Hubbard.)

A. Mr. Case was there. I know I talked to Mr. Case. [1812]

Q. Who was he?

A. He is the engineer that works for the company. Also it was at his desk where I was standing, the table where he works.

Q. You were standing at the desk?

A. At his drawing table.

Q. Was anyone else standing at that window inside the building with you? A. Yes.

Q. Who?

A. I don't recall definitely. There was one or two of the other employees?

Q. Other office employees?

A. Other office employees, yes.

Mr. Clark: That is all.

Trial Examiner Lindsay: Any other questions?

Mr. Walsh: That is all the questions I have of this witness. However, we will want to recall him on another phase of the case when we get to it, so I would appreciate it if the court would have him remain available. It may be several days before we reach him, and I mean I don't mean that he should not go about his duties, but just not leave the district until the hearing is closed.

Trial Examiner Lindsay: Yes. You are under orders of the court until released subject to further call, and I suggest that you give this gentleman plenty of time to get in. [1813]

Mr. Walsh: Yes. We will try and arrange it as conveniently as possible.

(Testimony of James W. Hubbard.)

Q. (By Trial Examiner Lindsay): I don't quite understand what your duties are over there.

A. For the Boswell Company?

Q. Yes.

A. Well, they run, operate several ranches, and I furnish advice you might say, as to how to operate these ranches, how to plow and till and how to irrigate and so forth.

Q. You do that for Mr. Boswell personally?

A. No, for the J. G. Boswell Company.

Q. For the J. G. Boswell Company?

A. Yes.

Q. It is entirely up to you to handle that matter?

A. No. I have the approval on anything I do, but I make suggestions and usually they are approved.

Q. Have you ever made directions to anyone as to irrigating without talking to Mr. Boswell about it?

A. Oh, I do just a normal operation, I tell the foreman the cotton needs irrigating. That is generally understood that I would have that authority.

Trial Examiner Lindsay: Will you read that last answer, please?

(The record referred to was read by the reporter, as set forth above.) [1814]

Trial Examiner Lindsay: The word "foreman" should be "farmer" shouldn't it?

(Testimony of James W. Hubbard.)

The Witness: We have what we call foremen on the ranches.

Q. (By Trial Examiner Lindsay) You tell these foremen what to do? A. Yes.

Q. And the foreman carries that out?

A. Yes.

Q. Who does the foreman work for?

A. He works for Boswell Company, J. G. Boswell Company.

Q. So, in fact, you are over the foreman, is that right?

A. I advise the foreman how to operate the ranches, yes.

Q. He is supposed to carry out your orders?

A. Yes.

Q. Does he carry out your orders?

A. Yes.

Q. How long have you been doing that for Boswell Company?

A. Since January 1, 1937.

Trial Examiner Lindsay: That is all.

Mr. Walsh: Just a minute. One more question.

Redirect Examination

Q. (By Mr. Walsh) Is Mr. Grisham one of the persons to whom you normally give orders about farm management? A. Yes.

Q. Would you name the other foremen? How many are there? [1815]

A. Burt Lowry, and Curtiss, H. A. Curtiss at

(Testimony of James W. Hubbard.)

the present time. There are only two foremen under contract.

Q. I see. Would that apply—I mean, would your duties require you to give orders to men like Mr. Liggett if they had a contract with you to run one of your farms?

Mr. Clark: I object to that on the ground it is purely hypothetical and assumes something not in evidence, namely that Mr. Liggett has a contract to run one of the farms. That is not in the testimony.

Trial Examiner Lindsay: Sustained.

Mr. Walsh: That is all.

Recross Examination

Q. (By Mr. Clark) Mr. Hubbard, I think you called Mr. Grisham a contractor?

A. Yes.

Q. Is that right? A. Yes.

Q. So, if I understand you correctly, at the present time, or rather at the time we are interested in here, the early part of this year, you had the one contractor and two foremen, is that right?

A. That is right.

Mr. Clark: Very well. That is all.

Trial Examiner Lindsay: Who is the other foreman, farm foreman? [1816]

The Witness: Burt Lowry and Henry Curtiss.

Mr. Clark: Lowry and Curtiss. That is all from us, Mr. Examiner.

Redirect Examination

Q. (By Mr. Walsh) Mr. Hubbard, how much

(Testimony of James W. Hubbard.)

notice would be convenient for you when we need your testimony further?

A. Well, I am out in the field quite a bit, just a matter of getting hold of me. You might not be able to get a hold of me for a half a day or a day.

Q. If we leave a call at the Boswell Company in the evening that we need you at noon the next day or 2:00 o'clock, would that be enough time for you?

A. I would say, ordinarily, that it would.

Trial Examiner Lindsay: And if there is any question about it and you don't happen to get the notice just at that time, why I will immediately forgive you for it.

The Witness: Thank you.

(Witness excused.)

Trial Examiner Lindsay: We will have a ten-minute recess.

(At this point a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Lindsay: Hearing called to order. [1817]

L. E. ELY,

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

(Testimony of L. E. Ely.)

Mr. Mouritsen: Mr. Examiner, I should like to recall this witness for just one or two questions. It is on a matter I forgot to examine him on in his testimony when he was testifying regarding the Associated Farmers. Now I realize, of course, that this comes squarely within the interdiction of the Trial Examiner's announcement at the beginning of the trial and I am recalling him merely for a point that I forgot to question him about, about a matter he has already testified to.

Mr. Clark: There wouldn't be any point in recalling him then, would there?

Mr. Mouritsen: I mean, it is regarding a point regarding this picketing incident we did not cover.

Mr. Clark: I see. I thought you said something about which he had already testified.

Mr. Mouritsen: No.

Trial Examiner Lindsay: Any objections?

Mr. Clark: No, we have no objections, Mr. Examiner.

Trial Examiner Lindsay: In any event, you may examine him. [1818]

Direct Examination

Q. (By Mr. Mouritsen) Now, directing your attention, Mr. Ely, to this morning of January 30th, which has been identified as the morning on which the pickets, including yourself, were requested to leave the Boswell plant, I will ask you if prior to the time when the crowd assembled at the Boswell plant you saw anyone go into the Boswell office?

(Testimony of L. E. Ely.)

Mr. Clark: Well, Mr. Examiner, may I ask that the foundation be laid, that is, to where Mr. Ely was and——

Trial Examiner Lindsay (Interrupting): Yes.

Mr. Clark (Continuing): ——and the time of day and who was with him and so forth?

Q. (By Mr. Mouritsen) As I understand it, you have already testified that you were at the Boswell plant on the morning on which the pickets were requested to leave. Is that correct?

A. Yes.

Q. And was anyone else with you at that time?

A. Yes.

Q. Who else?

A. Steve Griffin.

Q. And were you sitting in an automobile at that time, you and Mr. Griffin? A. Yes.

Q. Now, just shortly prior to the time when the crowd as- [1819] sembled on that morning, did you see anyone enter the office of the Boswell Company?

Mr. Clark: May I have the time fixed, please, the time of day fixed as nearly as it can be.

Trial Examiner Lindsay: Yes.

Mr. Mouritsen: As I recall, Mr. Examiner, the testimony is that the pickets were requested to leave, or the crowd gathered at or about 10:00 o'clock in the morning.

Trial Examiner Lindsay: Yes.

Q. (By Mr. Mouritsen) Now, before 10:00

(Testimony of L. E. Ely.)

o'clock in the morning, or before the crowd gathered, did you see anyone enter the office of the Boswell Company? A. I did.

Q. And who did you see enter the office of the Boswell Company at that time?

Mr. Clark: Just a minute. I object to this as incompetent, irrelevant and immaterial, not binding on any of the respondents, and ask that that objection run to this entire line of testimony.

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: Yes. He may answer.

Mr. Clark: Very well.

The Witness: I saw Lloyd Liggett.

Q. (By Mr. Mouritsen) And can you fix the time, approximately how long before the crowd gathered did you see Mr. Liggett [1820] go into the office?

A. 9:45, to be exactly correct.

Q. In other words, approximately 15 minutes before the crowd gathered, is that correct?

A. Yes.

Q. And did you, after that time, see Mr. Lloyd Liggett leave the office of the Boswell plant?

A. I did.

Q. Approximately how long did he remain in the office of the Boswell Company at that time?

A. He was in there about five minutes.

Mr. Mouritsen: Nothing further.

Mr. Clark: No further questions.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Walsh: Mr. Phillip Hanson.

PHILLIP HANSON,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Will you state your full name, please?

A. Phillip Hanson.

Q. Where do you live, Mr. Hanson? [1821]

A. Five miles south of Corcoran.

Q. What is your occupation?

A. I am a farm foreman.

Q. And for whom do you work?

A. My father.

Q. Your father's name is what?

A. Jess Hanson.

Q. Are you a member of the Associated Farmers of Kings County, Inc.? A. I am.

Q. Were you a member—

Mr. Clark (Interrupting): May I have the last answer?

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: Talk right up.

Q. (By Mr. Walsh) Were you a member on the 30th of January, 1939? A. I was.

Q. Directing your attention to the 30th of January, which has been identified as the day the pick-

(Testimony of Phillip Hanson.)

ets were requested to leave the Boswell plant, I will ask you whether or not you attended a meeting at the Salyer ranch on the morning of that day.

A. I did.

Q. How did you receive notice of the meeting, Mr. Hanson?

A. I heard something about it, some men talking down around [1822] the Brunswick Pool Hall. They went out and I went on.

Q. Did you go out by yourself?

A. No. Red Henecke went out with me.

Q. How is that name spelled?

A. I couludn't tell you.

Q. Is this man a friend of yours? A. Yes.

Q. Did you drive out in your car or his?

A. My car.

Q. Did the person who told you about this meeting tell you why the meeting was being held?

A. No, he did not. [1823]

Q. Do you recall the name of the person who told you there was to be a meeting?

A. There were three or four people talking. I don't remember who they were.

Q. What time of day did you get to the Salyer ranch?

A. It was sometime in the morning. I don't remember at all the time it was.

Q. Now, this talk you had at the pool hall occurred before you went to Salyer's, did it not?

(Testimony of Phillip Hanson.)

A. Yes.

Q. Did you—how many people were at the Salyer ranch at that meeting?

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial, and may that objection and also the objection that any conversations are hearsay as to these Respondents run to this entire line of testimony?

Mr. Walsh: It may be so stipulated.

Mr. Clark: Very well.

Trial Examiner Lindsay: He may answer.

The Witness: What was the question?

(The question referred to was read by the reporter, as set forth above.)

The Witness: I have no idea; fifty, maybe.

Q. (By Mr. Walsh) Were there any speeches made there while you were there? [1824]

A. Well, everybody was talking. I don't know whether there was any different speeches or not. I do not know.

Q. Who did you see there that morning?

A. Clarence Salyer was there. I think Lloyd Liggett was there.

Q. Do you remember anyone else?

A. I don't recall. There was quite a few people around and everybody talking. I don't remember anybody else.

Q. What were they talking about?

A. Well, before—just before they started down to the gin, they were just generalities. And then

(Testimony of Phillip Hanson.)

they said they would go down and see if they couldn't get these boys to leave, these pickets.

Q. Do you recall anyone that made that remark?

A. No, I don't, different persons. No definite person.

Q. Did you leave the Salyer ranch and drive to the Boswell gin? A. I did.

Q. Did quite a crowd of people collect around the picket car there? A. Yes, they did.

Q. About how many, in your opinion?

A. I wouldn't know. Maybe seventy-five. There was a few more than there were out at the ranch. They saw the cars and collected around. [1825]

Q. Did you know the people that were there?

A. Some of them.

Q. Will you tell us who you saw there?

A. Oh, I couldn't recollect. I think Clarence.

Q. Referring to Mr. E. C. Salyer?

A. Yes; and Bob Wilbur, and Lloyd Liggett; and I don't know—Heneckie, the boy that went out with me.

Q. Did you know the boys who were in the picket car?

A. The only one I knew was Steve Griffin.

Q. Did you hear anything said at that time, at the time the people were all around there?

A. I heard different ones ask them to leave.

Q. Could you tell us who asked them to leave?

A. I don't remember who it was, no.

Q. Did you get out of your car after you got

(Testimony of Phillip Hanson.)

down to the gin? A. I did.

Q. Did you circulate among the crowd?

A. No, we stood on the edge of the crowd. I didn't go close to the car.

Q. Did you see the second car drive up?

A. Yes.

Q. Did you know any of the boys in the second car? A. No.

Mr. Clark: May I have the answer, please?

Mr. Walsh: You will have to speak up. [1826]

The Witness: Pardon me.

No, I didn't.

Q. (By Mr. Walsh) Did you see the crowd gathered around the second car?

A. I think maybe if I recollect right, there was three or four fellows went over to them, and they drove away.

Q. Now, did you attend the barbecue that was held at the Salyer ranch that night?

A. I did.

Q. About how many were there?

A. There were quite a few more than there were that morning. I imagine a hundred or so; maybe more.

Q. Were you a foreman at this time, Mr. Hanson? A. I was.

Q. How did you happen to be in town that morning?

A. Oh, I went to town every morning.

Q. Oh, did you get any special permission to

(Testimony of Phillip Hanson.)

take the time off to go to the city?

A. I don't really have to get special permission to take time off.

Mr. Walsh: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Hanson, I will ask you to tell us whether or not your going to the Boswell plant on this morning of January 30th, 1939, was the result of any direction to you [1827] from the Associated Farmers of Kings County?

A. Not at all.

Q. Was it the result of any suggestion or invitation to you by the Associated Farmers of Kings County? A. No.

Mr. Clark: That is all.

Mr. Walsh: No further questions.

Trial Examiner Lindsay: That is all.

Mr. Walsh: This witness may be excused as far as I am concerned.

Mr. Clark: Very well. We have no further questions.

Trial Examiner Lindsay: Then you are entirely excused, Mr. Hanson.

(Witness excused.)

Mr. Walsh: Mr. Joe Mackey.

Joe Mackey?

(No response.)

Trial Examiner Lindsay: Is Mr. Mackey in the room?

(No response.)

Mr. Clark: Was he subpoenaed?

Trial Examiner Lindsay: I don't know.

Mr. Walsh: He hasn't been served with a subpoena, but we intend to serve a subpoena on him. If he was available, we thought we would use him now.

Now, as a matter of fact, we have run out of witnesses [1828] now. I understood Mr. Mackey was here in the court room. If he is here, we would take his testimony.

Mr. Clark: Is he here? I don't know.

Trial Examiner Lindsay: I don't know.

Mr. Walsh: Is Mr. Brice Sherman here?

(No response.)

Mr. Walsh: I understood that both Mr. Brice Sherman and Mr. Mackey were here. I don't know; if he was I would take the testimony now.

Mr. Clark: I think your understanding is the same as your clients'.

Mr. Walsh: I don't know.

Trial Examiner Lindsay: I don't know. If they are here, let them get up.

Mr. Clark: If there is anybody here that you want to call ultimately, you might call them and we will see.

Trial Examiner Lindsay: I would suggest that you get out your subpoenas and subpoena them, and let us not have this argument.

Mr. Walsh: That is all the witnesses we have here this afternoon, if your Honor please.

Trial Examiner Lindsay: All right. We will take our adjournment until 9:30 tomorrow morning.

(Whereupon, at 3:45 o'clock p. m., June 5, 1939, the hearing was adjourned to 9:30 o'clock a. m., Tuesday, June 6, 1939.) [1829]

American Legion Hall
Corcoran, California
Tuesday, June 5, 1939.
9:30 o'clock a. m. [1830]

PROCEEDINGS

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Respondents are ready.

Mr. Walsh: The Board is ready.

Mr. Ralph Gilkey.

Mr. Clark: Now, Mr. Examiner, I will repeat my general objection—pardon me.

RALPH GILKEY,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Mr. Clark: Now, Mr. Examiner, I will repeat my general objection to the reception of any evidence in support of the purported charge against

(Testimony of Ralph Gilkey.)

the Associated Farmers of Kings County, Inc., and the complaint issued against that organization, upon the ground that there has been no showing in this record of any jurisdiction in the Board over that organization, or its activities; furthermore, that there has been no showing that the Associated Farmers of Kings County is an employer within the meaning of the Act.

I will ask that that general objection run to all of today's testimony which may be adduced purportedly in support of the Board's case in that respect.

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: Did I understand you to say you [1832] stipulated to that?

Mr. Walsh: I will stipulate with Mr. Clark that that objection may run to the entire line of testimony of this witness, and others testifying similarly.

Mr. Clark: That is, all witnesses produced today on that phase of the case?

Mr. Walsh: That is my understanding.

Mr. Clark: Yes.

Trial Examiner Lindsay: You may proceed.

Direct Examination

Q. (By Mr. Walsh) Will you state your name?

A. Ralph Gilkey.

Q. Where do you live, Mr. Gilkey?

A. Here in Corcoran.

(Testimony of Ralph Gilkey.)

Q. What is your business or occupation?

A. Farming.

Q. Are you a member of the Associated Farmers of Kings County, Inc.?

A. Yes.

Q. Were you a member on the 30th of January, 1939?

A. I am quite sure I was.

Q. Directing your attention to the 30th of January, 1939, which has been identified as the day on which certain pickets were requested to leave the Boswell gin, I will ask you whether or not you attended a meeting at the Salyer ranch on that morning? [1833]

Mr. Clark: Just one minute, please, Mr. Gilkey:

To which I object, Mr. Examiner, on the ground it is incompetent, irrelevant and immaterial, and hearsay as to these Respondents, no authority having been shown in the witness to do any acts on behalf of any of the Respondents on that day, or at the gathering concerning which the testimony is being elicited.

I will ask that that objection run to this entire line, the testimony of this witness.

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: Well, for a point of information, off the record.

(Discussion outside the record.)

Trial Examiner Lindsay: All right. Proceed.

(Testimony of Ralph Gilkey.)

He may answer the question. Read the question, please.

(The record referred to was read by the reporter, as set forth above.)

The Witness: No, I did not.

Q. (By Mr. Walsh) Were you present during the morning at the Boswell gin when a group of people collected there and requested the pickets to leave? A. I was not.

Q. Do you recall having heard that there was going to be a meeting at Mr. Salyer's ranch?

A. No, sir. [1834]

Q. Did you know of the gathering that was going to take place down at the Boswell gin?

A. I did not.

Q. Were you in the City of Corcoran on that day? A. No, I wasn't.

Q. Do you recall where you were?

A. San Francisco.

Q. You were?

When did you return from San Francisco?

A. On the night of the 30th, I think it was, on that Streamliner. [1835]

Q. Then had you left the City of Corcoran to go to San Francisco?

A. I left on—the day before. It would be on the 29th.

Q. What day of the week was that? Do you recall? A. It was Sunday, wasn't it?

(Testimony of Ralph Gilkey.)

Mr. Clark: Let the record show the witness is now looking at a calendar.

Mr. Walsh: I have no objection.

Trial Examiner Lindsay: Well, the fact is, he isn't looking at a calendar yet.

Mr. Clark: I understand that. He is now looking at one, after having made the statement, "It was a Sunday, wasn't it?"

The Witness: It is on a Sunday.

Q. (By Mr. Walsh) Are you referring to a diary or daybook, Mr. Gilkey?

A. A diary.

Q. Do you have any objections to reading the notation that you are now referring to?

A. None at all.

Q. Would you read it for us, please?

A. On what day do you want?

Q. Sunday. A. All right.

I will read the whole thing.

Q. Just pertaining to leaving the city. I have no desire [1836] to——

A. (Interrupting): "My wife and I went to San Francisco on the Streamliner."

Q. Leaving at what time, the Streamliner?

A. I didn't put the hour here but it was, I think, about 11:00 o'clock we left Hanford.

"Donald got a great kick out of the trip and having dinner in the diner. It was raining in San Francisco so we stopped at the Keystone Hotel close to the depot"—and go on here—"Went to the show."

(Testimony of Ralph Gilkey.)

Mr. Clark: That is what date, please?

The Witness: January 29th, Sunday; January 29th.

Q. (By Mr. Walsh) Does your diary contain an entry for the 30th? A. It does.

Q. Would you read that portion of it which relates to arriving in Corcoran?

A. I don't know as I have that much of it here. I have here:

“We met some of our friends up there from Corcoran and we had dinner at Lucca's.” That was about 1:30 or 2:00 o'clock.

“We got back to the depot at 4:00 o'clock and took the bus across the bay. The Nichols came home with us.” That was some of our friends—
“On the train.” [1837]

That is all I have excepting I mention here there was a tragedy on the Tulare Lake that day. Two men were drowned.

That is all I have.

Mr. Clark: What date, please?

The Witness: January 30th, Monday. [1838]

Q. (By Mr. Walsh) These notations in your diary were made by you about the days that they occurred?

A. Oh, yes, oh, yes. I have kept a diary for the last five years.

Q. What time does that train arrive in Hanford—it comes through Hanford, doesn't it?

A. Yes. I think it is around 9:00, somewhere around 9:00 o'clock.

(Testimony of Ralph Gilkey.)

Q. In the evening? A. In the evening.

Q. And I presume you left your car in Hanford, and then drove back here? A. We did.

Mr. Walsh: That is all.

Mr. Clark: No questions.

Trial Examiner Lindsay: That is all.

Mr. Walsh: This witness may be excused as far as we are concerned.

(Witness excused.)

Mr. Walsh: Mr. Brice Sherman.

BRICE SHERMAN

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [1839]

Direct Examination

Q. (By Mr. Walsh) Will you state your full name, please? A. Brice Sherman.

Q. And where do you live? A. Corcoran.

Q. What is your business or occupation?

A. Farming.

Q. How long have you lived here?

A. Since December, 1935.

Q. Are you a member of the Associated Farmers of Kings County, Inc.?

A. I don't know. I gave—I signed an application, but I have not received a card yet.

Q. Do you recall when you signed it, Mr. Sherman? A. About the 7th of February.

(Testimony of Brice Sherman.)

Mr. Clark: What year, please?

Q. (By Mr. Walsh) 1939?

A. Yes, sir.

Q. Now, directing your attention to the 30th of January, which has been the day identified here as the day on which certain pickets were asked to leave the Boswell gin, were you in Corcoran on that day?

A. Not until about 2:30 in the afternoon.

Q. Did you attend a meeting at Mr. Salyer's ranch in the morning of that day? [1840]

Mr. Clark: Now, I am going to object to this, may it please the Examiner, on the ground it is incompetent, irrelevant and immaterial, and hearsay as to the Respondents, and ask that that objection be deemed to run to all of this witness's testimony.

Mr. Walsh: So stipulated.

Mr. Clark: Very well.

Trial Examiner Lindsay: He may answer.

The Witness: What was the question?

Mr. Walsh: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: No, sir.

Q. (By Mr. Walsh) Where were you on that part of the day preceding 2:00 o'clock in the afternoon, I believe you said you got back to Corcoran?

A. At that time I was employed by the J. H.

(Testimony of Brice Sherman.)

Degnan Implement Company in Hanford, and I went to Hanford on that morning.

Q. You drove to Hanford from here?

A. Yes, sir.

Q. What time did you leave Corcoran?

A. I presume around 7:30, because I was supposed to be to work at 8:00 o'clock.

Mr. Clark: That was in the morning? [1841]

The Witness: Yes, sir.

Q. (By Mr. Walsh) How far from here to Hanford? A. About twenty miles.

Q. Do you usually go to work every morning at Hanford?

A. Generally—especially on Monday mornings we are supposed to check in there. I was working in the country, and we are supposed to check in on Monday, on that morning.

Q. For a sales meeting, or something of that nature? A. Yes, sir.

Q. And the balance of the week you worked your territory calling on customers that you might sell implements to, is that right?

A. Yes, sir.

Q. Now, did you return to—did you return from Hanford to Corcoran about 2:00 o'clock in the afternoon?

A. I had lunch in Hanford and had a little business at Armona, and then came back down to Corcoran.

Q. Who did you see in Armona?

(Testimony of Brice Sherman.)

A. I had—I can't recall his name—I had to see a Greek farmer about four miles South of Armona I had sold a tractor to.

Q. You proceeded directly from Hanford to Armona?

A. Yes; this farmer's place South of Armona, yes, sir.

Q. And talked with this customer and then proceeded on to Corcoran, is that correct? [1842]

A. Yes, sir.

Q. Did you stop and see anyone else on the way from Hanford to Corcoran?

A. As I came to the highway where the road—the County road intersects the highway at Guernsey, I saw Russel Slaybough and Mrs. Slaybough and George Bell sitting in the car. And I stopped to talk to them a few minutes.

Q. What was the conversation about, if you recall?

A. I had heard at Hanford that there had been some excitement here in Corcoran, and I stopped to ask Russel what was going on down here.

And he said, "What are you talking about?"

He didn't know any more about it than I did.

And he said, "Let's go down and see."

We didn't go together. We went into town here and was asking questions about what had happened. [1843]

Q. Did you find out what had happened?

A. Different parties told us that they had moved

(Testimony of Brice Sherman.)

the pickets out, which I had heard in Hanford before I came down.

Q. Did you attend a meeting at a barbecue at Mr. Salyer's ranch on that night?

A. Yes, sir.

Q. Were there—was there a large crowd there?

A. Quite a number of farmers; yes, sir.

Q. About how many?

A. Oh, I judge possibly a hundred or more.

Q. How long did the meeting last, the barbecue and the gathering?

A. I didn't get there until the barbecue was practically over with, and I presume the meeting was over with by 10:30.

Q. Now, directing your attention again to the morning of the 30th of January, will you tell us just what you did after you arrived in Hanford?

A. I talked to the owner of the business, Mr. Degnan, and Mr. Guy Hammond, who is another salesman, and they were—while we were there some fellows came in from the country who were interested in different things and I didn't get away from the office until around noon. I had lunch and by that time I had heard about this disturbance here.

Q. I see.

A. It just so happened some customers came in and we didn't [1844] get to the country early that morning.

(Testimony of Brice Sherman.)

Q. How did you happen to hear—when did you hear of the disturbance? When was the first notice you had of it?

A. As I recall—I don't know his name—a fellow that solicits ads for the Hanford paper, and he comes into our place of business quite often. He came in. He knew I lived in Corcoran and he said something, kidded me about what kind of a town it was, that they tried to tear it up or something. I said, "What is going on?"

He told me he had heard this. That is the first I heard of it.

Q. Now, do you recall what time that was, Mr. Sherman?

A. It was along toward lunch time because I thought—well, I would go—it was close to lunch time and I thought I would come down here, but we decided to have lunch and call on this party on the way down.

Q. Do you know a man by the name of Steve Griffin? A. Yes, sir.

Q. How long have you known him?

A. Since I have been in Corcoran.

Q. I have forgotten how long that was.

A. Since the fall of '35.

Q. Approximately four years?

A. Yes, sir.

Q. Do you know him very well? [1845]

A. He has baled hay at times for me, for people that I was working for.

(Testimony of Brice Sherman.)

Q. Did you ever have any business dealings with him yourself, sell him any farm implements or anything like that? A. No, sir.

Q. Did you ever call on him for the purpose of making a sale? A. No, sir.

Q. Talk sale with him? A. No, sir.

Q. Do you know the Ely boys, Elgin Ely and Boyd Ely?

A. By sight only until I seen them here.

Q. I see. Until this trial started you——

A. (Interrupting: I didn't know their names. I knew them when I saw them.

Q. Just knew they were Ely boys?

A. Not Ely boys, just characters, fellows on the street, fellows I seen down here. I did not know they were Elys until I see them here.

Mr. Walsh: That is all. You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Sherman, I understand that you were not at the Boswell plant here in Corcoran on the morning of January 30, 1939?

A. No, sir. [1846]

Q. Who, if anyone, accompanied you to Hanford on the morning of that day?

A. My son.

Q. And how old is he, please?

A. Nineteen.

Q. And what is his name?

A. Jack Raymond Sherman.

Mr. Clark: That is all.

(Testimony of Brice Sherman.)

Mr. Walsh: That is all. This witness may be excused.

(Witness excused.)

Mr. Walsh: Mr. William Turner. (No response.)

Trial Examiner Lindsay: Mr. Turner? (No response.)

Has he been subpoenaed?

Mr. Walsh: Yes.

Mr. Robert Wilbur.

ROBERT WILBUR

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Will you state your full name, please?

A. R. W. Wilbur; Robert W. Wilbur.

Q. Where do you live?

A. I live in Corcoran. [1847]

Q. What is your business or occupation?

A. I am a farmer.

Q. On your own account? A. Yes.

Q. Where is your farm located, Mr. Wilbur?

A. Oh, I farm one that belongs to my mother in Tulare County and do a little farming in Kern County along with Mr. Gilkey.

(Testimony of Robert Wilbur.)

Q. Which Mr. Gilkey?

A. Mr. Ralph Gilkey.

Q. Mr. Ralph Gilkey.

Are you a member of the Associated Farmers of Kings County? A. No, sir.

Q. Never made application for membership?

A. No, sir.

Q. Are you a member of the Associated Farmers of Tulare County? A. No, sir.

Q. Are you a member of the Associated Farmers of Kings County? A. No, sir.

Q. I mean Kern County. A. No, sir.

Q. Now, directing your attention to the 30th day of January, 1939, which is the day that has been identified as the day that [1848] some of the pickets were requested to leave the Boswell gin, I will ask you if you attended a meeting at Mr. Salyer's ranch on that morning.

Mr. Clark: Just a moment. I want to object to that on the ground it is incompetent, irrelevant and immaterial; and hearsay as to these respondents, and ask that that objection be deemed to run to this witness' entire testimony.

Mr. Walsh: So stipulated.

Trial Examiner Lindsay: He may answer.

The Witness: May I hear the question again?

(The record referred to was read by the reporter, as set forth above.)

The Witness: Yes, I was there.

(Testimony of Robert Wilbur.)

Q. (By Mr. Walsh) What time did the meeting start, did you know?

A. Oh, I don't remember. I think it was around some place between 8:00 and 10:00 o'clock.

Q. How did you know a meeting was to be held out there? A. I heard it.

Q. Do you recall who told you, Mr. Wilbur?

A. No. Everybody was talking about it.

Q. Did you know before you arrived there why the meeting was being held?

A. I had an idea why.

Q. What was your idea? [1849]

A. A bunch of the fellows around here in town, everybody in town, thought that things, some things were going on, which shouldn't be, and they decided to do something about it. That is my understanding of the meeting.

Q. Now, what were the things that were going on, Mr. Wilbur, that these fellows thought something ought to be done about?

A. Well, I think I refer, or was referring to the presence of the pickets.

Q. At the Boswell gin? A. That is right.

Q. Now, at that time, Mr. Wilbur, did you have any cotton in the gin?

A. I don't know. I have had cotton there. My mother has had cotton there for the last two or three years, at one time or another. I don't know whether I had any cotton there or not.

Q. Do you recall—when you say your mother has, you mean that is the family?

(Testimony of Robert Wilbur.)

A. The family.

Q. I see. That would include your own, or your interest in the family? A. Yes.

Q. The family's business?

A. Including my interest in the family's business.

Q. Now, you had sold your crop, had your crop in the gin this [1850] last season at Boswell's, is that right?

A. I don't know what she did with it, whether she sold it all or put some in the Government program, or just what she did with it. Our cotton was ginned there.

Q. I see.

Now, what happened, or what was done at the Salyer ranch that morning? Were speeches made or——

A. (Interrupting): No, no speeches that I can remember of.

Q. Just a general talk, something like that?

A. Just talked the thing over was all. Announcement was made as to what was to be done, and that is all there was to it.

Q. Do you recall who made the announcement?

A. Yes, sir.

Q. Who made it? A. I made it.

Q. Do you remember what you said?

A. No, not exactly. We didn't think much about it.

Q. Tell us—I don't expect you to remember the exact words——

(Testimony of Robert Wilbur.)

A. (Interrupting): It was to the effect that there were pickets down there interfering with the shipping, the transportation of the cotton which was in the yard, and that I thought—it was the opinion of the group that was there that it would be a good idea to ask those boys to leave so that they would no longer interfere with the shipping of the cotton. [1851]

Q. Yes.

A. It was made plain that was the only reason anyone was going down there. We didn't care whether there was one or ten that went down; didn't make any difference. That was the object of the meeting.

Q. There was no pre-arrangement as to how many people would go down, is that right?

A. Not as far as I know.

Q. Was any one appointed as spokesman for the group?

A. Not that I know of.

Q. At the time that the group—whoever went—would arrive there?

A. You mean at the time they arrived at the gin?

Q. Yes.

A. Yes. I think that more or less I was appointed to that. I wasn't appointed by any certain party, just a group of people there.

Q. Was anyone to act on that committee with you?

A. Not——

(Testimony of Robert Wilbur.)

Mr. Clark (Interrupting): I object to that on the ground it assumes something not in evidence, that there was a committee appointed.

Mr. Walsh: I will withdraw that question, Mr. Clark.

Mr. Clark: All right. [1852]

Q. (By Mr. Walsh): Was anyone suggested to assist you or be with you when you acted as spokesman for the group?

A. I don't remember whether there was or not.

Q. Can you—will you tell us the names of the people who were at the Salyer ranch, Salyer's ranch?

A. Well, there was lots of people there. I see them every day. I don't recall, as I recall, any particular party who was there.

Q. Were there farmers that you had known, I suppose, for some time?

A. Oh, sure, farmers from all over the district.

Q. Well, can you give us some of their names?

A. Yes. I think I remember seeing Mr. Salyer there. I don't know—just a bunch of them. I see them every day. I wouldn't think any more about seeing them there than I would down town.

Q. Now, will you tell us—had you taken anyone with you in your car?

A. No. I was alone.

Q. Did you take anybody from the Salyer ranch down to the gin?

A. No. I was alone coming back.

(Testimony of Robert Wilbur.)

Q. Will you tell us now what happened when the group arrived down at the Boswell gin?

A. Well, the group got there some time before I did, and all [1853] I can recall was the boys were told approximately just what I finished telling you, and they moved on. The group was disbanded, and that was the end of it.

Q. Now, can you give us the names of any of the persons whom you saw at the Boswell gin of the group that left Salyer's?

A. Well, I don't know. I would say the same group. I didn't pay any particular attention, didn't keep any record of it; didn't think there was anything to it.

Q. Now, do you recall—did you do the talking for the group when you got down to the Boswell gin?

A. Everybody was talking when I got down there.

Q. Had the group collected around the picket car by the time you parked your car and got over there?

A. Oh, yes.

Q. They had.

Do you recall anything that was said at that time?

A. No, not particularly. Some of the boys were talking to the pickets. I didn't pay much attention to it, what they said.

Q. Did the pickets then drive away?

A. Oh, in a few minutes, they drove away.

(Testimony of Robert Wilbur.)

Q. I will ask you whether or not you recall a second carload of men arriving who were men belonging to this same Union that the pickets did?

[1854]

A. Yes. I think they did drive up just about the time that the car started away.

Q. Do you recall, or did you know the men that were in the picket car?

A. I knew one that was in the picket car standing there.

Q. Which one did you know? A. Steve.

Q. Steve Griffin? A. Yes.

Q. Did you know any of the boys in the second car?

A. Only by sight; didn't know their names.

Q. Have you since learned their names?

A. Well, I think the boy right back here, Ely, I think he is one of them.

Q. Mr. Wilbur, do you recall after the pickets were requested to leave, the Union leaders offering to withdraw this activity for the benefit of any farmer who had cotton in the Boswell gin?

Mr. Clark: Objected to upon the ground it is indefinite.

The Witness: You will have to ask that question——

Mr. Clark (Interrupting): It calls for a conclusion of the witness as to who the Union leaders were, and also there is no foundation laid.

Trial Examiner Lindsay: Sustained.

(Testimony of Robert Wilbur.)

Q. (By Mr. Walsh): Do you recall, Mr. Wilbur, of any announce- [1855] ment being made on behalf of the American Federation—strike that.

Mr. Wilbur, after the pickets were requested to leave, was there any announcement made by the American Federation of Labor Union that any farmer having cotton in the Boswell gin might call for it and get it?

Mr. Clark: I object to that upon the ground it is incompetent, irrelevant and immaterial, and also no proper foundation laid.

Trial Examiner Lindsay: He may answer.

The Witness: Where was this announcement supposed to be made?

Mr. Clark: That is the point of my objection, Mr. Examiner.

(Conference between counsel.)

Q. (By Mr. Walsh): I will ask you if such an announcement wasn't made in the Governor's office in Sacramento?

Mr. Clark: Objected to upon the ground no foundation has been laid, and also it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: Now, will you ask those two questions again so I can hear them together?

Mr. Walsh: If the reporter will read both questions, please.

(The record referred to was read by the reporter, as [1856] set forth above.)

(Testimony of Robert Wilbur.)

The Witness: If there was such an announcement made, that is only part of it.

Q. (By Mr. Walsh): Will you tell us the whole thing?

A. I didn't keep a record of that meeting in the Governor's office. There were three or four reporters there, and I think there is an exact copy of that, and I wouldn't care to testify on it until I saw the copy of the minutes held there.

Trial Examiner Lindsay: Can you give us your recollection as to what it was?

The Witness: Well, that was some time ago.

Trial Examiner Lindsay: Was that an important matter in your affairs at that time?

The Witness: I didn't deem it important.

Q. (By Mr. Walsh): You didn't have any cotton there then at that time?

A. I don't know if I had cotton there or not.

[1857]

Q. Were you present at a meeting in Hanford some time following the meeting in the Governor's office?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: When was this meeting?

Q. (By Mr. Walsh): On February 7, 1939, held in the civic auditorium at Hanford at 7:30 in the evening.

A. Yes, I was.

Q. Do you recall such an announcement being made at that meeting?

(Testimony of Robert Wilbur.)

A. No, I don't recall any announcement worded that way.

Q. Well, just give us your recollection of it. I don't expect you to remember the exact words.

A. There was an announcement of some kind provided that certain things could be done to designate the farmers' cotton, but it took in a lot of complications there that were never worked out.

Q. Well, the announcement was made in such a way to be sure that they identified the cotton that belonged to the individual farmers, **was it not?**

Mr. Clark: Objected to on the ground it is leading and suggestive, and improper direct examination, and immaterial to the respondents.

Trial Examiner Lindsay: May we have the question? [1858]

Mr. Clark: May I add to the objection, it is beyond any of the issues framed in these proceedings. It is after the last date which is counted on in this proceeding.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: He may answer.

The Witness: I never would say on that. There are so many technicalities on it that there wasn't anything that could be worked out.

Q. (By Mr. Walsh): Do you know whether or not after these announcements were made that any effort was made to work out some system whereby the individual farmers could have their cotton released?

(Testimony of Robert Wilbur.)

Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Lindsay: He may answer.

The Witness: In the first place, that was a round table discussion——

Trial Examiner Lindsay (Interrupting): Just a minute. Listen to the question. Mr. Reporter, will you please read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: I do not know.

Q. (By Mr. Walsh): How many acres do you farm, Mr. Wilbur? [1859]

A. Oh, approximately 1200 acres of grain, 100 or 120 of cotton, and some alfalfa.

Q. How much alfalfa?

A. 60 or 80 acres.

Q. That includes the land that you work with Mr. Gilkey and also——

A. (Interrupting): No. I have about 1200 acres with Mr. Gilkey and the balance is on my mother's ranch.

Q. I don't understand.

A. The balance is on my mother's ranch.

Q. I think I am a little confused.

Was the first figure you gave, the 100 acres of grain and the 120 or 125 acres of cotton or alfalfa, does that relate to your mother's ranch?

A. Yes.

Q. And besides that you operate 1200 acres

(Testimony of Robert Wilbur.)

with Mr. Gilkey, do I understand? Is that correct?

A. You understand, I farm approximately that much cotton and alfalfa on my mother's ranch, and about 1200 acres with Mr. Gilkey in Tulare County.

Q. That is your entire operation?

A. Yes, sir.

Q. Now, directing your attention to the evening of January 30, 1939, did you attend a barbecue and a meeting at Mr. Salyer's ranch? [1860]

A. Yes, sir.

Q. How did you get notice that a barbecue was to be held?

A. Why, that was something else that we talked in town. Everybody talked about it. It was going to be a good feed and they just went out there.

Q. About how many people were there, Mr. Wilbur?

A. Anywhere from a hundred to two hundred.

Q. Were there speakers there that night?

A. There were several speakers there.

Q. Do you recall who the speaker was?

A. Yes, sir.

Q. Can you tell us his name?

A. Harry Martin.

Q. How long did the meeting last?

A. Oh, I would say until 10:00 or 10:30, something like that.

(Testimony of Robert Wilbur.)

Q. Do you know who the Mr. Martin is?

A. Yes, I know him.

Q. Who is he?

A. He is a businessman in Los Angeles.

Q. Do you recall how he happened to be here for the barbecue and the meeting?

A. He was invited.

Q. Do you know who invited him?

A. Not just offhand who gave him the invitation. [1861]

Q. Did you ever hear who had asked him to be there?

A. No, I think he was asked by a group; and I don't know who the group was. I wasn't in town while he was there.

Q. Had he been invited some days before?

A. I don't know when he was invited.

Q. Do you recall the subject of his speech?

A. Oh, yes.

Q. What, in general, was it?

A. Well, he just gave a good sound talk on Americanism and some of the problems we were up against, just a good constructive talk.

Q. Were there tickets sold to the barbecue?

A. No.

Q. Did you have anything to do with making the arrangement for the barbecue?

A. I was helping out. We had to get a tent up, and one thing and another. [1862]

Q. Where did the tent come from?

(Testimony of Robert Wilbur.)

A. I think it came out of Fresno.

Q. Do you recall who made the arrangements for the tent?

A. No, I don't know who made the arrangements.

Q. Do you recall whether or not there was any charge for the rent of the tent?

A. I don't know whether there was or not.

Q. Did you assist in putting the tent up?

A. I don't believe I was there when the tent was put up, although I was around there part of the day.

Q. After you left the Boswell gin, did you then go to Mr. Salyer's ranch and help make the arrangements for the barbecue?

A. No. I came down town and I went over to Tipton, I believe. I had an engine working over there, and came back to Corcoran some time later in the day.

Q. What did you have to do with putting up the tent?

A. Oh, I don't know as I had anything to do with it.

Q. How far is it from here to Fresno?

A. Oh, I think the road map will show you about sixty miles.

Q. Did someone from here send a truck over to Fresno to get the tent, or did it come out from there?

A. I had very little to do with that tent. I

(Testimony of Robert Wilbur.)

don't know how it got here, or who ordered it, or anything else about it. [1863]

Mr. Walsh: You may inquire.

Cross Examination

Q. (By Mr. Clark): Mr. Wilbur, you have never been a member of the Associated Farmers of Kings County, have you? A. No, sir.

Q. Will you please tell us whether or not in going down to the Boswell plant on the morning of January 30th of this year that was the result of any direction to you from the Associated Farmers of Kings County?

A. As far as I know, there was no instructions given by any Associated Farmers group, and there was just as many farmers there as there were men that belonged to the Associated Farmers.

Q. All right.

Will you please tell us whether or not your going down to the plant of the Boswell Company that morning, namely, January 30th, was the result of any suggestion or invitation whatsoever from the Associated Farmers of Kings County?

A. There was no suggestion made that I know of.

Mr. Clark: That is all.

Trial Examiner Lindsay: Any other questions?

Mr. Walsh: May I have the witness's answer read to the—well, all of the questions Mr. Clark asked?

Trial Examiner Lindsay: Yes.

(Testimony of Robert Wilbur.)

(The record referred to was read by the reporter, as set forth above.) [1864]

Redirect Examination

Q. (By Mr. Walsh): Mr. Wilbur, didn't you tell me on your direct examination that you didn't recall who told you about going to the meeting, and going on down from the meeting down to the gin? I am referring to the meeting at Mr. Salyer's?

A. Yes, I think I did. You will have to check that back.

Q. That is your recollection?

A. Yes. I recollect that I didn't know.

Q. Well, how, then, are you positive that the invitation wasn't as a result of the Associated Farmers of Kings County?

Mr. Clark: Well, I object to that as argumentative, Mr. Examiner.

Trial Examiner Lindsay: He may answer.

The Witness: Will you ask that question again?

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: To my knowledge the Associated Farmers have nothing to do with it.

Q. (By Mr. Walsh): Did you, at that time, know the names of the people who were members of the Associated Farmers of Kings County?

A. I knew some of them.

Q. And how do you know that there were just

(Testimony of Robert Wilbur.)

as many persons there not members of the Associated Farmers of Kings County as [1865] there were persons who were members?

Mr. Clark: Objected to as argumentative.

Trial Examiner Lindsay: He may answer.

The Witness: I will say I assumed. I didn't keep the count on them.

Q. (By Mr. Walsh): You want to amend your answer that you gave to Mr. Clark on that point?

A. I would say it is my opinion. Just add "my opinion," there.

Q. All right. Fine.

Now, how do you arrive at that opinion, Mr. Wilbur?

A. Well, the same way you would arrive at any opinion. That is your idea. That is your thought.

Q. Yes.

Do you recall who the persons were at the Salyer ranch who were not members of the Associated Farmers?

A. As I stated first, there was a large group there, men whom I see every day, and I don't remember the names of them.

Q. Well, what I am trying to get at is as to just how you arrive at the opinion that there were just as many people there who were not members of the Associated Farmers as there were members of the Associated Farmers?

Mr. Clark: Objected to on the ground it has been asked and answered; also, improper redirect examination.

(Testimony of Robert Wilbur.)

Trial Examiner Lindsay: He may answer.
[1866]

The Witness: Will you ask the question again?

Trial Examiner Lindsay: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: From a general observation it was my opinion that it was a mixed group.

Q. (By Mr. Walsh): Well, did you at that time know who were the members of the Associated Farmers of Kings County?

Mr. Clark: Objected to on the ground it has been asked and answered.

Trial Examiner Lindsay: He may answer.

The Witness: As I stated before, I knew some of the members. [1867]

Q. (By Mr. Walsh) Now, can you give us the names of any persons who were at the Boswell ranch—or the Salyer ranch on the morning of January 30th, who were members of the Associated Farmers of Kings County, Inc.?

A. I gave you the names of the persons I remembered out there.

Q. Do you have any recollection of any other persons that you haven't told us about?

A. I think that question was answered.

Trial Examiner Lindsay: Mr. Witness, will you please answer that question.

Read the question.

(Testimony of Robert Wilbur.)

(The question referred to was read by the reporter, as set forth above.)

The Witness: No.

Mr. Walsh: That is all.

Mr. Clark: No further questions.

Mr. Walsh: This witness may be excused, your Honor.

Trial Examiner Lindsay: Just a minute, Mr. Witness.

Q. What time in the morning of January 30th, if you know, did that tent get out there where you had the barbecue that night?

A. I do not know what time it got there.

Q. Well, were you out there during the afternoon of January 30th when the tent was being put up, if it was being put up, on that day? [1868]

A. If that is the day that the tent was put up, I was out there during the day.

Q. Now, do you know whether or not the tent was put up on the same day as this incident over at the Boswell plant?

A. Well, I judge it was. We had the meeting that night in the tent.

Q. Your judgment is that it was put up on the same day as the incident at the Boswell plant, is that right?

A. That is my opinion.

Q. And you were out there that day while the tent was being put up?

A. Part of the time.

Q. Did you know what the tent was being put up for?

(Testimony of Robert Wilbur.)

A. Yes, I will say I knew what it was being put up for.

Q. You knew as a matter of fact they were going to have that barbecue that night, did you not?

A. I knew they were making arrangements to have a dinner of some kind and have a meeting as I stated in the first part of the testimony.

Q. That same night? A. Yes.

Q. Now, did you testify in your direct examination from questions asked you by Mr. Walsh that you heard about that barbecue in town, everybody was talking about it, and there was going to be a good feed out there, so you went out? [1869]

A. Yes.

Q. Now, did you mean by that, that was the way you heard about that barbecue going to be held that night?

A. I heard about the barbecue talking to other farmers and I think it was in town where I heard about it.

Q. But you already knew about it, didn't you?

A. No.

Mr. Clark: Objected to as argumentative, Mr. Examiner. May I have the ruling?

Trial Examiner Lindsay: Yes. He may answer.

The Witness: I was there in the afternoon.

Trial Examiner Lindsay: Will you read the question?

(The question referred to was read by the reporter, as set forth above.)

(Testimony of Robert Wilbur.)

The Witness: Will you read the question before that?

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: All I want to know, Mr. Witness, is this; to sum up in one question: Now, you did or did not know about that barbecue going to be held that night in the afternoon when you were out there when the tent was being put up?

The Witness: In my direct examination I think I answered that I heard it in town that morning.

Trial Examiner Lindsay: Well, all right. [1870]

Q. You knew, though, on the afternoon that the tent was being put up that they were going to have a barbecue that night?

A. I knew that in the morning when I heard it in town.

Q. You knew it when you went out there to put up the tent? A. I didn't put it up.

Q. I mean, when it was being put up?

A. Naturally, if I knew about it that morning.

Trial Examiner Lindsay: That is all.

Mr. Walsh: You may be excused.

The Witness: For good?

Mr. Walsh: Yes.

(Witness excused.)

Mr. Walsh: Mr. Ralph Marshall.

Or did you want to have a recess?

Trial Examiner Lindsay: Martin?

Mr. Walsh: Marshall.

Trial Examiner Lindsay: Mr. Marshall.

RALPH MARSHALL

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Will you state your name, please? A. Ralph Marshall. [1871]

Q. Where do you live, Mr. Marshall?

A. Corcoran.

Q. What is your business or occupation?

A. I work for Raymond Gilkey.

Mr. Clark: May I have that answer?

Trial Examiner Lindsay: Read the answer.

(The answer referred to was read by the reporter, as set forth above.)

Mr. Walsh: Mr. Examiner, I wonder if the witness might pull his chair out a little bit? He is back far enough so we get an echo.

Thank you.

Q. What do you do for Mr. Gilkey, Mr. Marshall? A. Bookkeeper.

Q. Are you a member of the Associated Farmers of Kings County, Inc.?

A. I have no card, no.

Q. Did you make an application to become a member?

(Testimony of Ralph Marshall.)

A. I think around February 15th.

Mr. Clark: Of what year?

The Witness: This year.

Q. (By Mr. Walsh) 1939? A. Yes.

Q. Now, directing your attention to January 30th, 1939, which has been identified as the day when some of the pickets [1872] were asked to leave the Boswell gin, I will ask you if you attended a meeting at Mr. Salyer's ranch on that morning?

A. I got there just as the crowd was leaving.

Q. Do you recall about what time it was, Mr. Marshall?

A. Sometime during the morning.

Q. How did you know that a meeting was being held out there?

A. I was out of town two days prior; happened to be in town that morning and saw a bunch of cars going down there, and I just drove down.

Q. Had you heard from anyone that a meeting was taking place out there? A. I did not.

Mr. Clark: May I have the answer just before this remark? I didn't quite get it, Mr. Examiner.

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh) When you refer to "down there," do you mean referring to Mr. Salyer's ranch?

A. Yes, sir, I do. They were going that way.

(Testimony of Ralph Marshall.)

Q. When you arrived at Mr. Salyer's ranch, were there a number of people there?

A. I don't know how many. There were practically all of them in the cars at that time. I just stopped and turned around and followed. [1873]

Q. Did you get out of your car at Salyer's ranch? A. For a moment, yes.

Q. Did you talk to anyone there?

A. I can't recall whether I did or not. I didn't see anybody that I recall. I was out of my car, but I didn't stop to talk to anybody, I know, now.

Q. Had these cars that you noticed in town driving down toward Mr. Salyer's ranch, had they arrived there ahead of you?

Mr. Clark: Well, I object——

The Witness (Interrupting): They had——

Mr. Clark (Continuing): ——it calls for a conclusion of the witness whether these cars arrived there.

Trial Examiner Lindsay: If he knows, he may answer.

Q. (By Mr. Walsh) If he knows.

Mr. Clark: You mean at the Salyer ranch?

Mr. Walsh: Yes.

Q. That is what I had reference to.

A. Will you state the question again?

Mr. Walsh: May I withdraw that question and ask the witness another one?

Q. I believe you stated that you saw a number of cars driving toward the Salyer ranch, and you followed them.

(Testimony of Ralph Marshall.)

Now, did the cars you were following all go to the Salyer ranch? [1874] A. No.

Q. They did not?

A. (Shaking head negatively.)

Mr. Clark: May I have the answer, please?

The Witness: No.

Mr. Clark: The reporter cannot get a shake of the head.

Trial Examiner Lindsay: He answered. He said they did not.

Mr. Clark: Not before I called his attention to the fact.

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Walsh) Well, Mr. Marshall, these cars, then, that you were following turned off at some place between the City and Mr. Salyer's ranch, didn't they?

A. Two of them did, and the other went to Mr. Salyer's ranch, but did not stop. He circled right around and came back with the crowd.

Q. Now, will you tell us what occurred when you arrived at the Boswell gin?

A. Well, I was riding in a rather large truck that morning, and I had a little difficulty in parking, finding a parking space, so I didn't get there, up to where the picket car was, for some little time, and it was only a short while before they moved. [1875]

Q. Did they have any difficulty—

(Testimony of Ralph Marshall.)

A. (Interrupting) I did not get close to the car.

Q. Did you hear anything that was said?

A. No, I did not.

Q. Did the picket car have any difficulty in starting?

A. Well, I couldn't see. I was back too far.

Q. Would you give us your estimate of the size of the gathering there?

A. I never did estimate crowds.

Q. Did you hear anyone say how large the crowd was?

A. I heard somebody say about a hundred or so people down there.

Q. Were you there at the time the second carload of men came up, the car containing Union men? A. I did not see it.

Q. You didn't see it?

Were you in position to recognize any of the pickets? A. I knew Steve.

Q. You saw him?

A. I saw him in the car.

Mr. Clark: Mr. Walsh, may it be stipulated as to the competency of this testimony, and as to hearsay, that it runs to the entire testimony of this witness?

Mr. Walsh: So stipulated.

Q. How long did you remain there, Mr. Marshall? [1876]

A. As soon as the car left, I went to Stratford.

(Testimony of Ralph Marshall.)

Q. What is the balance of your answer?

A. I went to Stratford.

Q. To Stratford? A. Yes.

Q. Now, did you recognize any of the people who were there that morning? A. I do not.

Q. You did recognize Steve?

A. Yes. That was the only one that was mentioned here.

Q. Yes.

But you—did you recognize any of the persons who were requesting the pickets to move on?

A. Wasn't close enough to see who was doing any talking.

Q. Did you recognize any of the persons in the group, Mr. Marshall?

A. I don't recollect ever trying to remember their names. I remember—

Q. (Interrupting): Did you talk with any of the group there that morning?

A. Nobody but Mr. Gilkey.

Q. Now, that was Mr. Raymond Gilkey, was it not? A. Yes, sir.

Q. Now, how close did you ever get to the picket car, Mr. Marshall? [1877]

A. Oh, I guess about one hundred feet.

Q. There was quite a crowd of people between you and the car, was there not? A. Yes, sir.

Q. How tall are you, Mr. Marshall?

A. I think about five four to six.

Q. Did Mr. Steve Griffin get out of the picket car at all? A. I don't know.

(Testimony of Ralph Marshall.)

Q. Not while you saw him? A. No.

Q. You didn't see him get out?

A. I only saw Mr. Griffin as I drove around the picket car.

Q. In order to find a parking place for your truck, is that right? A. Absolutely.

Q. At the time you drove around the picket car, the men were already gathered around, is that right? A. Not yet.

Q. They hadn't yet?

A. (Nodding head negatively.)

Q. Did you see Mr. Griffin after you had parked your truck and came back there?

A. No, I didn't. [1878]

Q. You didn't see him? You weren't in a position to see into the car because of the people between you and the automobile, is that correct?

A. Right.

Q. Now, do you recall which way the picket car was facing?

A. I recall it was facing south and I was driving south.

Q. Now, did you pass the picket car on the right or the left side of the picket car?

A. I was out on the highway.

Q. You were on the highway, is that right?

A. Yes.

Q. As I understand it, the picket car was standing between the highway and the scales?

A. I don't know what you have reference to, the scales.

(Testimony of Ralph Marshall.)

Q. The scale house of the—that is right near the Boswell gin.

A. If that is what it is, that is where it was.

Q. Standing near a post there, wasn't it?

A. I don't recall.

Q. Now, which side of the car was Mr. Griffin seated on?

A. As I recall, he was on the right side.

Q. He was not behind the driver's seat?

A. Not when I went by.

Q. When you saw him?

A. Whether he changed his position, I do not know. [1879]

Mr. Walsh: You may inquire.

Mr. Clark: No questions.

Trial Examiner Lindsay: That is all.

Mr. Walsh: Just one minute. I might add another question.

(Conference between counsel.)

Mr. Walsh: No further questions. This witness may be excused as far as I am concerned.

Trial Examiner Lindsay: All right.

(Witness excused.)

Trial Examiner Lindsay: We will have a ten-minute recess.

(At this point a short recess was taken, after which proceedings were resumed, as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Walsh: Mr. Examiner, this will conclude, except for one witness I might have later in the day, this phase of the case and Mr. Mouritsen will now go into the A(2) part of the Board's case.

Mr. Clark: Mr. Examiner, may I ask the name of the witness who Mr. Walsh intends to call later in the day, because he may be in the court room and we may be able to conclude with him.

Trial Examiner Lindsay: That is a matter that is up to Mr. Walsh. [1880]

Mr. Walsh: No. As a matter of fact, I know he isn't here.

Mr. Clark: Have you any objection to stating who he is?

Mr. Walsh: I would prefer not.

Mr. Clark: Mr. Filcher is in the court room and I wondered whether that was who it was.

Mr. Walsh: No. I don't desire to use Mr. Filcher.

Mr. Clark: Very well.

Mr. Mouritsen: Eugene Clark Ely.

EUGENE CLARK ELY

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

Mr. Clark: May I ask what this testimony is directed to?

(Testimony of Eugene Clark Ely.)

Mr. Mouritsen: This is directed, Mr. Clark, to the allegation of the complaint alleging that the Employees' Association is company dominated.

Mr. Clark: I see.

Mr. Mouritsen: As to the A(2) violation of the Act.

Direct Examination

Q. (By Mr. Mouritsen) You have previously been sworn, Mr. Ely, is that correct?

A. Yes.

Q. Mr. Ely—

Trial Examiner Lindsay (Interrupting): Do you have his [1881] first name?

The Reporter: Yes.

Q. (By Mr. Mouritsen) You are Eugene Clark Ely, is that correct? A. Yes, sir.

Q. Some times known as "Fat Boy" Ely, is that correct? A. That is right.

Q. Directing your attention to the date on or about November 18, 1938, which has been identified as the day upon which a number of the employees of the company were requested or did leave the plant of the J. G. Boswell Company, I will ask you if on or about that date you attended a meeting of the employees of the J. G. Boswell Company?

A. Yes; on November 18, 1938, about—

Q. (Interrupting): Where was the meeting of the employees held that you attended?

A. On the morning. It was 10:00 o'clock in the morning, one of the meetings.

Q. Now, after that 10:00 o'clock meeting did you attend any meeting of the employees?

(Testimony of Eugene Clark Ely.)

A. Yes.

Q. Where was this later meeting held?

A. In the office of J. G. Boswell Company.

Q. And approximately what time of day?

A. 7:00 o'clock in the afternoon. [1882]

Q. Now, other than yourself were there other employees of the J. G. Boswell Company present?

A. Yes, all but about one or two.

Q. And I believe you stated it was held in the company office, is that correct? A. Yes.

Q. That is in the company plant out here in Corcoran, is that right? A. That is right.

Q. Now, would you tell us what occurred at that meeting that was held at that time, that is, in the afternoon or evening?

Mr. Clark: Objected to as incompetent, irrelevant and immaterial; and hearsay as to the respondents, not binding upon them, no authority having been shown from any of the respondents to any of the persons present at that meeting to speak for them with regard to any matters under investigation in this proceeding.

Trial Examiner Lindsay: He may answer.

The Witness: Well, we was informed in the afternoon——

Mr. Mouritsen (Interrupting): By whom?

The Witness: Tommy Hammond was the one that told me.

Mr. Clark: May that objection run to this entire line of testimony, Mr. Mouritsen?

(Testimony of Eugene Clark Ely.)

Mr. Mouritsen: So stipulated. [1883]

Mr. Clark: Very well.

The Witness: That Oscar Busby and he, M. K. Robinson, known as "Yankee" Robinson, and Clyde Sitton, went to Lemoore and saw an attorney to see about organizing a company union. Mr. Busby, he acted as spokesman at the meeting and stated the attorney didn't see why a company union wouldn't work down here like they had elsewhere. They talked on about organizing the union of their own there in the company and they had a paper there that all the employees sign their names, just a blank sheet of paper.

Q. (By Mr. Mouritsen) Wasn't there any writing or any printed matter upon this sheet that was signed? A. Not at this meeting.

Q. And did you sign the paper yourself?

A. I did.

Q. Now, did you see any of the men at that meeting who, prior to that time, had given you orders or directions regarding your work?

A. I did.

Q. Will you state the names of all such men whom you saw present on that occasion?

A. Tommy Hammond, Joe Hammond.

Q. Do you recall whether or not Bill Robinson was present? A. He was.

Q. Do you recall whether or not you had been notified of [1884] this meeting prior to the time when it was held? A. Yes.

(Testimony of Eugene Clark Ely.)

Q. Do you recall who, if anyone, notified you?

A. Jack Ely had told me first and then Tommy Hammond came around and told me.

Q. Now, do you recall anything further that happened at that first meeting?

A. No, they said something about there would be a meeting——

Mr. Clark (Interrupting): Just a minute. May I have it identified as best the witness can?

Trial Examiner Lindsay: Yes. [1885]

Q. (By Mr. Mouritsen) Can you tell us who said that? A. Oscar Busbee.

Q. What did he say?

A. He said we would have a meeting later on with that attorney there to discuss the matter.

Q. Who is Oscar Busbee?

A. He is a foreman in the machine shop.

Q. After that time, did you attend any further meetings of employees of the J. G. Boswell Company? A. I did.

Q. Where was the next meeting held that you attended? A. American Legion Hall.

Q. In this hall where we are now holding the hearing? A. Yes.

Q. And approximately how long after the first meeting was the second one held that you attended?

A. I would say about the first of December, somewhere along there.

Q. Now, were there a number of other employees of the Company present at this next meeting you attended?

(Testimony of Eugene Clark Ely.)

A. Yes, there was employees of the J. G. Boswell Company plant here in Corcoran and Tipton, California, also.

Q. Did you see anyone—strike that.

I will ask you if Tommy and Joe Hammond were present at this second meeting that you attended? [1886]

A. They was.

Q. Do you recall the names of any other employees who were present at that time?

A. Yes. Oscar Busbee and E. M. Robinson, Bill Robinson, Jack Owens, Don Mummer, Sam Robinson, and Mr. Brown.

Q. Do you know his first name or initials?

A. No. There are a number—all of the employees that worked down there, Jack Ely and Guy Poole.

Q. Approximately how many?

A. I would say about eighty.

Mr. Clark: How many?

The Witness: Eighty.

Q. (By Mr. Mouritsen) Were you present during the entire meeting from the time it took up until the meeting disbanded?

A. I was.

Q. Will you state what occurred during this second meeting?

Mr. Clark: This is subject to that same objection as hearsay and incompetent?

Mr. Mouritsen: Yes.

Trial Examiner Lindsay: He may answer.

The Witness: E. M. Robinson, Oscar Busbee—

(Testimony of Eugene Clark Ely.)

they were standing up at the desk, and I was sitting along where the table is.

Q. (By Mr. Mouritsen) (Interrupting) Indicating counsel table, is that right? [1887]

A. Yes.

And the attorney from Lemoore, he was present; and they talked about organizing the Company union. And the attorney made quite a long speech. I don't know exactly what all it was, but he said in forming a company union down there that he thought that the company union should get along better with the Company than the A. F. of L. or C. I. O.

Q. Was anything said at that second meeting regarding a constitution and by-laws?

A. Yes. I don't remember whether they was drawn—I don't think they was drawn up at this time.

Q. Do you recall what was said regarding a constitution and by-laws?

A. Well, to my best knowledge, the attorney said that there—it would be drawn up. And he had a sheet of paper up on the desk, and everybody was to go by and sign their name on the piece of paper.

The paper had "J. G. Boswell Company Employees' Association" on the top of the paper.

Q. Now, do you recall anything further that was done at this second meeting that you attended?

A. Well, this attorney said the employees was to elect the officers, and we could do that the next week if we didn't have time that night.

(Testimony of Eugene Clark Ely.)

Q. Do you recall how you received notice of this second meet- [1888] ing? A. Yes.

Q. Who, if anyone, notified you of the second meeting?

A. E. M. Robinson sent the card notifying me of the meeting, and Tommy Hammond came around the afternoon of the meeting and asked me was I going—

Q. (Interrupting) Let us fix that.

Where were you when Tommy Hammond came around on that day? A. In the drier room.

Q. Was anyone else present other than you and Tommy Hammond? A. No.

Q. Will you state what Tommy Hammond said to you on that occasion with reference to this meeting that was later held?

A. He asked me was I coming to the meeting that night. I said, "I don't know; I suppose so."

He said, "Well, if you want to keep on working, you had better be there."

Q. Was anything further said at that time?

A. No.

Q. Now, after the second meeting of the employees, did you attend any further meetings of the employees? A. Yes.

Q. Approximately how long—strike that.

Can you fix the approximate date of the next meeting you [1889] attended?

A. I couldn't say whether it was in December or January.

(Testimony of Eugene Clark Ely.)

Q. Well, where—can you fix it with reference to Christmas of 1938? Was it before or after Christmas?

A. I believe it was before Christmas, a short while.

Q. Now, where was the next meeting held that you attended? A. Here in the Legion Hall.

Q. Do you recall how you received notice of this third meeting?

A. By card—well, I didn't get my card. Yankee Robinson came around and gave it to me where I was working.

Mr. Clark: Yankee Robinson is E. M. Robinson?

The Witness: Yes.

Q. (By Mr. Mouritsen) Did you attend this third meeting? A. I did.

Q. Were you there during the entire course of the meeting? A. I was.

Q. Did you see a number of other employees of the Company present at that time?

A. About eighty or eighty-five.

Q. Did you see present on that third occasion any employees who prior to that time had given you orders or directions in regard to your work?

A. I did.

Q. Will you state the names of such employees whom you saw [1890] present on that occasion?

A. Tommy Hammond, Joe Hammond and Rube Lloyd, Bill Robinson.

Mr. Clark: Mr. Mouritsen, it is understood that

(Testimony of Eugene Clark Ely.)

my hearsay objection runs to this entire testimony of this witness?

Mr. Mouritsen: That has been my understanding.

Mr. Clark: Yes. That is why I am not repeating my objection.

Q. (By Mr. Mouritsen) Now, Mr. Ely, will you state what occurred at this third meeting that you attended?

A. Well, right at the start of the meeting I believe we took a secret vote on the officers that was to be elected, president, vice-president and secretary, and so forth.

Q. And were officers elected at that meeting, that you can recall? A. Yes.

Q. Do you recall the names—do you recall who was elected president? A. J. W. Hubbard.

Mr. Clark: May I have that name?

The Witness: J. W. Hubbard.

Q. (By Mr. Mouritsen) Do you recall the names of any other officers who were elected at that time?

A. Oscar Busbee, vice-president.

Q. Do you recall the name of the secretary or treasurer?

A. The secretary, E. M. Robinson. [1891]

Q. Do you recall the name of the treasurer?

A. Sammy Brenes.

Q. Do you know whether or not that is spelled B-r-e-n-e-s? A. I believe it is.

Q. At this meeting, was anything done with reference to a constitution for an organization?

(Testimony of Eugene Clark Ely.)

A. Yes. I believe we had the by-laws and they were read at this third meeting, to the best I remember.

Q. And were they adopted by the body of the employees? A. Yes.

Q. Do you recall how they were read? As a whole, or section by section?

A. Well, the best I remember they were just read off.

Q. Were any changes made in the by-laws?

A. I believe to start off with, the name "J. G. Boswell Company Employees' Association of Corcoran" was changed to "J. G. Boswell Company Employees' Association of Corcoran and Tipton, California."

Q. Now, do you recall whether or not any other amendments were made to the by-laws before they were adopted? A. No, sir, I don't.

Q. Do you recall whether or not the by-laws were adopted at this meeting?

A. To the best I remember, they was.

Q. Do you recall how that was done? [1892]

A. By just the vote of the crowd, saying "Aye."

Q. Do you recall anything further that was done at that meeting?

A. Well, Mr. Hubbard made a speech and thought we were accomplishing quite a bit by this Company Union, and if we would all stick together, he didn't see how it wouldn't work.

They talked about the dues and the initiation fee

(Testimony of Eugene Clark Ely.)

—we weren't initiated, but I guess that was what you would call it—to go in the treasury. We could have a dance, parties and barbecue out of this money, but there was never anything said about better working conditions or better pay. [1893]

Q. Do you recall anything further that was done at this meeting? A. Not at this time, no.

Q. Do you recall—strike that.

After that meeting did you attend any further meetings of the J. G. Boswell Association—or Employees' Association of Corcoran and Tipton, California? A. No.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Clark) Mr. Ely, do you remember the name of the attorney who appeared at the meeting you have described for us of the Boswell Employees' Association and talked to the persons present about it? A. I don't recall his name.

Q. Do you know where he was from?

A. Mr. Busby and Rube Loyd said he was from Lemoore.

Q. Well, wasn't he introduced to the gathering on any of these occasions? A. Yes, he was.

Q. Wasn't his name Clark Clement?

A. I don't remember.

Q. Was there any discussion of the fee to be paid by the Association to Mr. Clement at any of these gatherings? A. Yes. [1894]

(Testimony of Eugene Clark Ely.)

Q. And am I not correct in stating that the fee was to be paid out of the treasury of the Association, that is, the dues paid by the members?

A. Yes.

Q. How many persons would you say signed up on the occasion of the first meeting which you have told us was held in the company's office about November 18th?

A. Oh, I would say about 70, somewhere around there.

Q. Do you know approximately how many employees there were at the Boswell plant at that time? A. No, I don't.

Q. Am I not correct in stating that there were approximately 80 or 90 employees at Boswell's at this time?

A. Boswell's in Corcoran and Tipton.

Q. I mean in Corcoran.

A. Not that I recall that there were that many.

Q. Isn't it a fair statement to say that practically everybody then employed by Boswell's at Corcoran joined this Employees' Association?

A. Yes.

Q. All right.

Now, can you place for us as nearly as you can the date of the last meeting you told us about?

A. Some time about Christmas. I don't know exactly.

Q. Was it before or after the first of the year?

[1895]

A. Might have been before Christmas. It might

(Testimony of Eugene Clark Ely.)

have been after the first of the year. I don't recall.

Q. When was it you joined the union? I am talking now about the American Federation of Labor union.

A. January 2nd.

Q. January 2nd? A. Yes.

Q. Did you attend a meeting of this Employees' Association after you had signed this application to join the American Federation of Labor union?

A. No.

Q. Are you sure of that?

A. I am positive.

Q. As a matter of fact, didn't you belong to both organizations for a considerable period of time?

A. I did not.

Q. Are you positive of that? A. Positive.

Q. I would like to read you the following from the record of this case, being the testimony of Mr. Martin, and after you have heard it and have had your recollection refreshed by hearing it, I then will ask you that same question again.

I am referring to page 1344 of the transcript.

“Q. (By Mr. Clark) On your direct examination, Mr. Griffin, you told us about a meeting of the union members which I think you placed as around the 15th or 16th of November? [1896]

A. Yes, sir.

“Q. Do you remember that?

“A. Yes, sir.

“Q. And then am I correctly stating that you said the members of the union were present at that meeting?

A. Yes, sir.

“Q. Will you name them for us?

(Testimony of Eugene Clark Ely.)

“A. Well, Elgin Ely, Roland Martin, Fat Ely, Elmer Eller, Lonnie Spear, George Andrade, and the balance of the bunch.

“Q. Who constituted the balance of the bunch, as nearly as you can remember?

“A. Powell.

“Q. Powell? A. Yes, sir.”

Are those statements made by Mr. Griffin, made under oath in this case, true?

Mr. Mouritsen: I object to that as an improper question to answer.

Mr. Clark: I submit it.

Are they true?

Trial Examiner Lindsay: Just a minute. Give me a chance to rule on the question, please.

Read the question.

(The question referred to was read by the reporter, as [1897] set forth above.)

Mr. Mouritsen: Now, may I have that—may I see your transcript? Didn't you say you were reading from Mr. Martin's testimony?

Mr. Clark: Griffin, I mean.

May the record show that the word Martin can be changed to Griffin?

Trial Examiner Lindsay: Be sure you get it right, now.

Mr. Clark: I mean Griffin. Page 1344.

Trial Examiner Lindsay: Now, Mr. Reporter, will you go back and read the question of Mr. Clark

(Testimony of Eugene Clark Ely.)

regarding the answer the witness gave as to January 2nd, just preceding that?

The Reporter: "I am talking now about the American Federation of Labor union.

"A. January 2nd."

Trial Examiner Lindsay: Give me the rest of his question, what he is talking about.

The Reporter:

"Q. Now, can you place for us as nearly as you can the date of the last meeting you told us about?

"A. Some time about Christmas. I don't know exactly.

"Q. Was it before or after the first of the year?

"A. Might have been before Christmas. It might have been after the first of the year. I don't recall.

"Q. When was it you joined the union? I am talking now about the American Federation of Labor union. [1898]

A. January 2nd.

"Q. January 2nd? A. Yes.

"Did you attend a meeting of this Employees' Association after you had signed this application to join the American Federation of Labor union? A. No."

Trial Examiner Lindsay: All right.

Mr. Clark: Now the statement that I read from the record is from the testimony of Mr. Steve Griffin appearing at page 1344 of the transcript and the

(Testimony of Eugene Clark Ely.)

testimony which I read shows that it is from Griffin's testimony because it starts out with this question:

"On your direct examination, Mr. Griffin, you told us about a meeting of the union members which I think you place as around the 15th or 16th of November," and if I later used the word "Martin" it was inadvertent.

Trial Examiner Lindsay: Now read the question, the very last part of the question.

(The record referred to was read by the reporter, as follows:)

"Q. Are those statements made by Mr. Griffin, made under oath in this case, true?"

Trial Examiner Lindsay: He may answer.

The Witness: Well, Mr. Griffin might have thought—— [1899]

Mr. Clark (Interrupting): May I have the answer, Mr. Examiner, and then the explanations?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark): Please answer it yes or no and then explain.

Mr. Mouritsen: I submit, Mr. Examiner, the witness isn't compelled to answer yes or no to that question.

Mr. Clark: The question is whether it was true or not and that certainly is susceptible of a yes or a no answer.

The Witness: I don't know.

Mr. Clark: All right.

(Testimony of Eugene Clark Ely.)

Trial Examiner Lindsay: Now you have an explanation to make?

The Witness: Mr. Griffin might have thought I belonged to the union because that I still went and seen some of the fellows, called on them at their house, to go to the show with them.

Q. (By Mr. Clark): And was that as early as November 16th of '38 that you were going to union gatherings, or with some of the fellows, as you have called them?

Mr. Mouritsen: I object to that as a compound question, Mr. Examiner. The witness has stated one thing and counsel is asking him a compound question.

Trial Examiner Lindsay: All right.

Mr. Clark: Let me have the answer, please.
[1900]

Trial Examiner Lindsay: If he understands the question.

Mr. Clark: I mean the answer before that, Mr. Examiner.

Trial Examiner Lindsay: I am sorry. Give him the answer before that.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: Now I want to withdraw the next question, Mr. Examiner.

Trial Examiner Lindsay: All right.

Mr. Clark: I will ask this question.

(Testimony of Eugene Clark Ely.)

Q. Mr. Ely, was that as early as November 16th of 1938?

Mr. Mouritsen: Objected to as vague and indefinite.

Mr. Clark: It refers to the question before.

Trial Examiner Lindsay: Yes. He knew that you were going to these gatherings or meetings, whatever they were.

The Witness: I wasn't in on none of the meetings; no.

Trial Examiner Lindsay: The gatherings is what we are talking about, that you were going to their homes and so forth. Is that the meaning?

Mr. Clark: That is what I mean, to these gatherings before or after the regular meetings.

The Witness: I went and called W. R. Johnston to the door and we went to the show from before the 16th until on after.

Mr. Clark: All right. [1901]

Q. Now, is that as much contact as you had or is that a fair description of the contact you had with the union members prior to the time you signed your application in January of '39?

Mr. Mouritsen: Do you understand that, Mr. Ely?

The Witness: No.

Mr. Clark: I ask that it be read back.

(The record referred to was read by the reporter, as set forth above.)

The Witness: Well, I was in the house and seen

(Testimony of Eugene Clark Ely.)

some of the fellows, but I never sat in on a meeting.

Q. (By Mr. Clark): Well, didn't you attend some social gatherings of the union members as early as November 16th of 1938?

A. Yes, sir; in the house to call on a fellow to go to a show with me.

Q. Is that what you refer to when you say that Mr. Steve Griffin might have thought you were a union member? A. That is right.

Mr. Clark: May I have this a moment, Mr. Examiner?

Trial Examiner Lindsay: Yes.

Q. (By Mr. Clark): Now I would like to refer you, Mr. Ely, to page 1374—1373, line 10 of the transcript, which is part of your cross examination. I would like to read it to you and I would like you to follow me as we go along, starting at line [1902] 10.

Just one minute. You see, that is your cross examination.

“Q. Had you attended any meetings or been in a house where a meeting was held at any time before that?”

Referring to the month of January, 1939.

“A. I was in the house where they had been held before then, yes. [1903]”

“Q. And where was the meeting where you were in the house prior to January?”

“Mr. Mouritsen: I object to the question upon the ground it is confusing.”

(Testimony of Eugene Clark Ely.)

“Mr. Painter: I will reframe the question.

“Q. When was the meeting which was held in a house where you were, that occurred prior to January, 1939?

“A. It was here in town.

“Q. I say when?

“A. I couldn't say exactly.

“Q. Well, can you tell us the month?

“A. January, 1939.

“Q. Well, now, just a moment. I asked you before January.

“Were you—I will withdraw that question.

“Were you in the same house where a Union meeting was held in January of 1939 at any time?

“Mr. Mouritsen: I object to the question, Mr. Examiner. It is a double-meaning question. It is unintelligible when you analyze the question. Was he ever in a house where a Union meeting was held.

“Mr. Painter: I will withdraw the question.

“Q. Did you ever attend a gathering of Union members before January of 1939?

“A. Not that I recall.” [1904]

Did you so testify on your cross examination in this case?

A. Well, it could have been still in January.

Q. Did you so testify? Do you remember?

A. I think so.

(Testimony of Eugene Clark Ely.)

Q. May I have the answer?

A. I guess I did.

Q. And was that the truth?

A. I suppose so.

Mr. Clark: That is all.

Mr. Mouritsen: Nothing further.

Mr. Clark: Nothing from us, Mr. Examiner.

Trial Examiner Lindsay: That is all.

(Witness excused.)

Mr. Mouritsen: Mr. Examiner, in support of the allegations of this part of the case, that is the 8 (2) violation, we have requested that Mr. Brenes appear at 2:00 o'clock with the Union records, and at this time we have no further witnesses to go forward with this part of the case.

Mr. Clark: I suggest a recess, then, Mr. Examiner.

Trial Examiner Lindsay: Yes, until 2:00 o'clock.

(Thereupon, at 11:45 o'clock A. M., a recess was taken until 2:00 o'clock P. M. of the same date.) [1905]

After Recess

(Whereupon, at 2:00 o'clock p. m., the hearing in the above-entitled matter was resumed, as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Respondents are ready.

Mr. Walsh: The Board is ready.

Trial Examiner Lindsay: I wish to call attention to a matter which has been brought to my attention. In yesterday's transcript on page 1765 on lines 2, 4, and 6 the word "cold," c-o-l-d, appears, and that word should be "told," t-o-l-d.

Mr. Clark: I think that is right.

Trial Examiner Lindsay: So let the record show that corrections.

Mr. Walsh: No objection.

Mr. Clark: No objection.

Trial Examiner Lindsay: And may I state that the crowd attending here has been very good in behavior with the exception of on about two or possibly three occasions when we have had outbursts of laughter. I wish that you wouldn't do that any more. It is hard to hear all of the testimony and it is difficult to have read back testimony of witnesses. When that is done then we have to have the question re-read to the witness, so let us be very careful about whispering or laughing at any testimony that comes over the witness stand. As a whole I commend all of you on your good behavior. [1906]

You may proceed.

Mr. Mouritsen: Mr. Brenes.

SAMUEL BRENES

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): What is your name?

A. Samuel Brenes.

Q. And where do you reside?

A. Here in Corcoran.

Q. What is your business or occupation?

A. I am a bookkeeper at the Boswell Company.

Q. How long have you held that position?

A. Here in Corcoran I have been employed since May 1935.

Q. And prior to that time were you employed by the J. G. Boswell Company elsewhere?

A. I was employed in their Tipton office for several months.

Q. Have you ever held any position in the J. G. Boswell Employees' Association of Corcoran and Tipton?

A. Mr. Clark: Objected to on the ground it is incompetent, irrelevant and immaterial and hearsay; not binding on any of the respondents in this case in view of the fact there is no authority whatsoever established in this record, may it please the Examiner, on behalf of any respondent to any person who is [1907] a member of the Employees' Association, and may that objection be deemed to run to the entire testimony of this gentleman, and then I won't repeat it?

(Testimony of Samuel Brenes.)

Mr. Walsh: So stipulated.

Mr. Clark: So stipulated.

Trial Examiner Lindsay: He may answer.

The Witness: Yes, sir.

Mr. Mouritsen: And what office did you hold in that organization?

The Witness: Treasurer.

Q. (By Mr. Mouritsen): When did you first hold that office?

A. I was elected at the organization meeting held by the Association. I believe that was November 1938.

Q. Was that meeting held at the plant of the Boswell Company? A. No, sir.

Q. You were subpoenaed to appear at the hearing, Mr. Brenes, were you not?

A. I was requested to. I received no subpoena.

Q. Well, do you have with you the constitution and by-laws of the J. G. Boswell Employees' Association of Corcoran and Tipton?

A. Yes, sir. [1908]

(The document referred to was passed to Mr. Mouritsen.)

Mr. Mouritsen: May this document be marked as Board's Exhibit next in order for identification?

Trial Examiner Lindsay: Yes.

(Thereupon, the document above referred to was marked as Board's Exhibit No. 18 for identification.)

(Testimony of Samuel Brenes.)

Q. (By Mr. Mouritsen): And also do you have the by-laws——

Mr. Clark (Interrupting): Just a moment. May I have the privilege of examining this before you ask the next question?

Mr. Mouritsen: I thought I could get the by-laws too, and have you look at them.

Mr. Clark: I can't very well look at this and——

Trial Examiner Lindsay (Interrupting): Let us not argue.

Mr. Clark: I will defer the examination of this if you wish.

Trial Examiner Lindsay: No, go ahead and examine it now.

Q. (By Mr. Mouritsen): Now, Mr. Brenes, I will show you the document that has been marked Board's Exhibit 18 for identification, and ask you to tell the Court what that is?

A. (Examining document): That is a copy of the constitution and by-laws of the J. G. Boswell Employees' Association of Corcoran and Tipton.

Q. Do you know where the original of that document is?

A. I believe it is in our secretary's file.

Q. And that is who? [1909]

A. That is Mr. McKeever.

Mr. Clark: Wasn't Mr. McKeever here in response to that subpoena on that first day, Mr. Examiner?

(Testimony of Samuel Brenes.)

Trial Examiner Lindsay: Well—

Mr. Clark (Interrupting): Wasn't Mr. McKeever here, and wasn't he released on 24 hours' notice?

Mr. Mouritsen: Mr. McKeever was subpoenaed and he appeared and then he later asked if he could be released, in as much as he was going to Arizona; and I told him at that time that would be satisfactory, providing he turned the documents over to Mr. Brenes and Mr. Brenes appeared.

Mr. Clark: The last I heard of it, Mr. Examiner, was that Mr. McKeever was released on 24 hours' notice to return, and I understood he can get back in 24 hours if there is any question about the original of that.

Trial Examiner Lindsay: Well, the only point, then, is the question of the original, is that it?

Mr. Clark: I presume so, if counsel is making a point of that.

Trial Examiner Lindsay: I don't know whether he has or not as yet. We will find out.

Q. (By Mr. Mouritsen): Have you seen the original or compared that document that has been marked Board's Exhibit 18 for identification, with the original constitution and by-laws of the organization? [1910] A. I have.

Q. And did your examination reveal that Board's Exhibit 18 for identification is an exact copy of the original constitution and by-laws?

A. Yes, sir.

(Testimony of Samuel Brenes.)

Q. Now, directing your attention to two sheets which appear after page 10 in Board's Exhibit 18 for identification, you will note that there are a number of names contained thereon. Is that correct? A. Yes, sir.

Q. Now, I will ask you if on the original constitution of the J. G. Boswell Company Employees' Association of Corcoran and Tipton, the signatures of these men appear? A. They do.

Q. In other words, these names that are here typewritten are written out in long hand in the original, is that correct? A. Yes, sir.

Q. And did your examination or comparison of Board's Exhibit 18 with the original show that all of the names that are now contained on Board's Exhibit 18 for identification were contained on the original constitution? A. Yes, sir.

Mr. Walsh: May I see it?

(The document referred to was passed to Mr. Walsh.)

Mr. Mouritsen: At this time, Mr. Examiner, I offer as [1911] Board's Exhibit 18 the document that has been marked Board's Exhibit 18 for identification.

Mr. Clark: To which we object on the ground it is incompetent, irrelevant and immaterial, not binding on any of the Respondents to this case, and the purest hearsay as to all of the Respondents, and it is probative of no issues at all as between the Respondents and the Board.

(Testimony of Samuel Brenes.)

Trial Examiner Lindsay: You don't object on the ground that it is a copy?

Mr. Clark: No, oh, no, no.

I suppose that the original could be produced, at any rate, upon getting in touch with Mr. McKeever.

So far as that is concerned, Mr. Examiner, I suppose that if the Exhibit is to be admitted in the face of my objection, that it be admitted subject to comparison with the original on behalf of either party if it is desirous to do so—if they desire to do so—before the completion of the hearing.

Mr. Mouritsen: Before the completion of the hearing?

Mr. Clark: Yes.

Mr. Mouritsen: That is satisfactory to the Board.

Trial Examiner Lindsay: Board's Exhibit 18 is received.

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit No. 18.) [1912]

BOARD'S EXHIBIT No. 18

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of

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of Corcoran and Tipton

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(Testimony of Samuel Brenes.)

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(Testimony of Samuel Brenes.)

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CONSTITUTION AND BY-LAWS OF

J. G. Boswell Company Employees' Association of
Corcoran and Tipton

—oOo—

CONSTITUTION

Article I.

Name

Section 1: The name of this association shall be
J. G. Boswell Company Employees' Associa-
tion of Corcoran and Tipton

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

Section 2: Wherever the phrase "The Company" appears herein, it shall mean the J. G. Boswell Company, a Corporation, doing business in Corcoran and Tipton, California.

Article II.

Objects

Section 1: The objects of the Association shall be:

- (a) To unite in one organization those eligible persons who have a common interest as employees of the Company.
- (b) To act as a central agency through which will be cleared information relating to matters affecting the common interest of members in their relationships with each other and the Company.
- (c) To provide a medium through which any member or group of members may, at any time, present suggestions, requests or complaints to the management of the Company.
- (d) To provide for collective bargaining with the Company, or for dealing with the company concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.
- (e) To encourage social and recreational activities among its membership.
- (f) To not interfere with the right of any member or members to present grievances

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

individually to the management of the company.

Article III

Membership—Qualification and Admission

Section 1: Any person who is now and has been continuously for a period of thirty (30) days or over, employed by the Company shall be eligible for membership; provided, however, that no employees exercising executive authority in the Company shall be eligible for membership. An executive is hereby defined to be one who in his discretion makes decisions in the management of the Company or disputes over labor, wages, rates of pay, hours of employment or conditions of work arising between the employees of the Company and the Company.

Section 2: Any person who qualifies under the provisions of Section 1 of this article, who has been approved by the committee on membership, and on payment of dues of this association, may become a member of this association and shall receive a certificate of membership which shall be executed by the president and secretary or other duly authorized members of this association.

Section 3: Any member who shall leave the employ of the Company, either by reason of dis-

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

charge, retirement or resignation, shall thereupon cease to be a member of this association, and shall surrender his certificate of membership; provided, however, that should any member consider that he has been discharged or laid off unjustly, he shall remain a member of this association until after his case has been submitted in writing to the proper authorities for consideration and final action taken thereon.

Section 4: Any person who may be re-employed by the Company and who was (prior to the cessation of his employment) a member of this association shall be eligible for reinstatement as a member of this association, upon the approval of the Committee on membership, without regard to the thirty (30) day requirement set forth in Section 1 of this Article, and without the payment of additional initiation fees or dues for the period of unemployment.

Section 5: Any member may terminate his membership in this association by filing a written notice thereof with the secretary of the association, and by surrendering his certificate of membership; such termination of membership to become effective ten (10) days after the filing of such notice.

Article III, Section 6, of the Constitution

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)
of the J. G. Boswell Company Employees' Association of Corcoran and Tipton: Membership in this Association constitutes a repudiation of membership in any other labor organization.

The above addition to the Constitution became effective on April 5, 1939, in accordance with the provisions of the Constitution and By-laws of the above named Association.

H. G. McKEEVER,
Secretary.

Article IV

Officers—And Annual Meetings

Section 1: The officers of this association shall be:

President
Vice-President
Treasurer
Secretary

All officers shall be members in good standing at the time of their election and during the entire period that they hold office, and shall have been in the continuous employment of the Company for one year or over, prior to their election.

The officers of this association shall constitute its Executive Committee.

Section 2: Meetings of the members of this asso-

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

ciation shall be held not less than twice a year, as provided for in the By-Laws.

Section 3: For the purpose of dealing with the specific labor problems, a Labor Relations Committee, consisting of three (3) members, shall be elected by the members. No member may be elected to the Labor Relations Committee unless he has been continuously employed by the Company for one year or over.

Section 4: When any written complaint is submitted to the Labor Relations Committee by a member of the association, such committee shall meet and investigate such complaint within ten (10) days after such complaint is filed with the committee, and report its decision in writing to the Governing Board and to the member making the complaint.

Article V

Election and Recall of Officers

Section 1: The officers and the Labor Relations Committee provided for in Article IV shall be elected annually, as provided for in the By-Laws, to serve for a term of one year, or until their successors are duly elected and installed.

Section 2: Any officer so elected shall be subject to recall in the manner provided for in the By-Laws.

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

Article VI

Governing Board

Section 1: To provide for a Governing Board of this association to govern its affairs, conduct negotiations with and meet with management of the Company, the duly elected officers of the association and the **Labor Relations Committee** shall constitute the members of such board.

Section 2: The Board meeting shall be subject to the call of its chairman at Corcoran, California, at such place therein as shall be selected by said board, at a meeting thereof.

The Secretary shall give written notice of all meetings called by the chairman to the members of the Governing Board by mailing the same to such members at least one (1) day prior to the time fixed for the meeting; provided, however, that such notice may be waived upon all members of said Governing Board by signing a written waiver thereof and filing the same with the secretary. Such notices shall state the general nature of the business to be considered at the called meeting.

Section 3: The president of the association shall be the President of the Governing Board. The secretary of the association shall be the Secretary of the Governing Board.

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

Section 4: All resolutions and proceedings in the meetings of the Board shall be entered in proper books by the secretary, who shall perform for the board all the services pertaining to the office of secretary. Copies of the minutes of the Governing Board shall be submitted to the members of the association at the next regular or special meeting of the members, following such board meeting or meetings.

Section 5: The Governing Board of this association shall be empowered to assist in the preparation of agreements between the association and the Company, and to be the sole representative or agency of the association for the purpose of collective bargaining with the management of the Company, agreements to become effective upon execution by the duly constituted officers of the Company and ratification by a majority of the total enrolled membership of the association.

Section 6: No strike shall be called, except as follows:

If a majority of the members of the Governing Board shall favor the calling of a strike, the proposition shall be immediately submitted to the membership at a specially called meeting therefor, and if two-thirds (2/3) of the total membership vote by a secret ballot in

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

favor of a strike, then the Governing Board shall call a strike within ten (10) days thereafter, and shall notify the president and secretary and manager of the Company of such strike, by mailing written notices of the same to said officers at their official addresses ten (10) days before the date set for said strike.

Section 7: Whenever the Governing Board shall adopt a resolution or determine upon a course of action following the filing of a complaint with the board, then the president of the association shall appoint a committee of three (3), selected from members of the Governing Board, to present the matter to the plant manager of the Company, and to negotiate with the management in connection therewith. If such negotiations with the plant manager are not settled within fifteen (15) days thereafter, then the Governing Board shall take the matter up with the officials of the Company, and shall have full authority to conduct whatever negotiations may be necessary with such officers.

Article VII
Amendments

Section 1: Any proposition to amend the constitution of this association shall be submitted in writing to the secretary of this association prior to any regular or special meeting of the

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

members. The secretary shall read the proposition at the meeting and it may be discussed but not voted upon. At the next meeting of the association at which a quorum is present the proposition shall be voted upon.

Should a two-thirds (2/3) majority of the total enrolled membership of the association favor the proposition to amend, the proposed amendment shall thereupon be referred to the Governing Board of this association.

Section 2: Should any amendment to this constitution, adopted by the members of this association, according to the procedure in Section 1 of this Article, receive the approval of the majority of the Governing Board of the association, the chairman shall declare the constitution of the association to be amended accordingly.

BY-LAWS

J. G. Boswell Company Employees' Association of
Corcoran and Tipton

Article I

Officers

President

Section 1: It shall be the duty of the president to preside at all meetings and to enforce all laws and regulations relating to the administration of the association.

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

Section 2: He shall call meetings of the association, the Executive Committee, or the Governing Board, when he shall deem it necessary or when requested to do so by the Executive Committee or the Governing Board or upon written request signed by at least fifty per cent (50%) of the enrolled membership of the association.

Vice-President

Section 3: In the absence of the president, all powers and prerogatives of the president shall be vested in the vice-president.

Secretary

Section 4: All resolutions and proceedings of meetings, whether of the association, the Executive Committee or the Governing Board shall be entered in proper books by the Secretary. The secretary shall keep a register of the membership of the association, and shall issue certificates of membership, as provided in Article III, Section 2 of the Constitution.

Treasurer

Section 5: All moneys payable to the association shall be paid to the treasurer of the association. All moneys payable by the association shall be paid by checks signed by the treasurer and countersigned by the President; however, the Executive Committee may authorize other

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

officers to sign or countersign checks during the absence of those herein designated. The treasurer shall report at each meeting of the association the condition of the Treasury.

Executive Committee

Section 6: The duly elected officers of the association, as designated in Article IV, Section 1 of the constitution, shall constitute the Executive Committee.

Duties of Executive Committee

Section 7: It shall be the duty of the Executive Committee to take the initiative in determining the policies of the association. It shall be its duty to take charge of, control, and manage all the property belonging to the association. A record shall be kept of its proceedings and a report thereof made in writing to the association at the regular meetings of the members.

Vacancies

Section 8: Vacancies which may occur in the offices provided for in Article IV, Section 1 of the constitution, shall be filled by appointment by the remaining members of the Executive Committee, the appointees to serve until their successors have been elected at the next regular election of officers and have been installed.

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

Vacancies in the Labor Relations Committee shall be filled in the same manner.

Other Committees

Section 9: There shall be four (4) other committees of the association, composed of members in good standing, who shall have been in the continuous employment of the Company for six months or over. All members of these committees shall be appointed by the President, with the approval of a majority of the Executive Committee, to serve for a term of one year at the discretion of the president.

Membership Committee

The Membership Committee, consisting of three (3) members, shall receive applications for membership, and after full investigation, and within thirty (30) days after receipt of such application, shall approve or disapprove the same, in writing, and file such writing with the secretary.

Any member may be expelled from membership in said association by a vote of two-thirds (2/3) of the total enrolled membership of said association, at any meeting of said association.

Nominating Committee

The Nominating Committee, comprising at least three (3) members, shall prepare a slate of officers and labor relations committeemen

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

for the succeeding term, insofar as practicable to be representative of the entire enrolled membership of the association.

Finance Committee

The Finance Committee, comprising at least three (3) members, shall be responsible for the auditing of the association's funds, disbursements, and current status of membership dues.

Social and Recreation Committees

Social and Recreation Committees, comprising five (5) members, shall make plans and arrangements for all social and recreational activities of the association, as authorized by the membership.

It shall be the duty of the secretary to post the names of all committeemen of the association on all bulletin boards. These committees shall report their activities to the Executive Committee at such times and in such manner as it shall direct.

Recall of Officers

Section 11: Any duly elected or appointed officer of this association may be subject to recall in the following manner:

Upon the presentation at any meeting of the members of this association of a petition signed by fifty per cent (50%) of the enrolled mem-

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

bership of the association requesting the recall, for cause, of any duly elected or appointed officer of the association, ballots shall be prepared and distributed by the secretary to the members of the association within five (5) days thereafter. The election shall be conducted as outlined in Article IV, Section 3 of the By-Laws herein. Should two-thirds ($2/3$) of the enrolled members of the association vote in favor of the recall, the presiding officer shall declare the office vacated, and the same shall thereupon become vacant.

Recall of Committeemen

Section 12: Any duly elected or appointed member of the Labor Relations Committee of this association may be subject to recall in the following manner:

Upon the presentation at any meeting of the members of this association of a petition signed by fifty per cent (50%) of the enrolled membership of the association, requesting the recall, for cause, of any duly elected or appointed member of the Labor Relations Committee, the secretary of the association shall prepare ballots and distribute them to the members of the association within five (5) days thereafter. The election shall be conducted as outlined in Article IV, Section 3 hereof. Should two-thirds

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

(2/3) of the members of the association vote in favor of the recall, the presiding officer shall declare the office vacated, and the same shall thereupon become vacant.

Article II

Meetings of the Associations

Regular Meetings

Section 1: The annual meeting of members of the association shall take place during the first week of April, the day of the week to be specified in the notice for such meeting, at which time the nomination of officers and the Labor Relations Committeemen shall take place, and at which time, said officers and committeemen shall be elected and installed.

Written notice of such meeting and of all regular meetings shall be mailed or sent by the secretary ten (10) days in advance of such meeting.

Regular meetings of the association shall be held not oftener than once a month at such time and place as may be designated by the Executive Committee.

Written notices of regular meetings shall be mailed or sent to each member by the secretary at least ten (10) days in advance of the date of such meetings.

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

Special Meetings

Section 2: Special meetings may be called at any time with the approval of the president of the association, as provided under Article I, Section 2 hereof.

Written notices of special meetings shall be mailed or sent to each member by the secretary at least ten (10) days in advance of such meetings.

Executive Committee Meetings

Section 3: Meetings of the Executive Committee shall be called by the president, or at the request of any member of the Committee.

Five (5) days' notice of a meeting of the Executive Committee shall be given to each of its members, and such notice shall, as far as practicable, contain a statement of the business to be transacted at such meeting.

Other Committee Meetings

Section 4: All other committees shall be subject to the call of their respective chairmen.

Quorum

Section 5: A representation of fifty per cent (50%) of the enrolled membership of this association shall constitute a quorum authorized to transact business duly presented at any meeting of the association, except that mem-

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

bers unable to be present may vote at any meeting by proxy mailed or sent to the secretary in advance of such meeting, or given to any member attending such meeting. Such proxies shall be considered as representation in constituting the quorum before mentioned.

Three (3) members of the Executive Committee shall constitute a quorum of such committee.

Article III

Resolutions

Section 1: Subjects or problems for negotiation with the general management or offices of the Company shall be drafted in the form of resolutions which shall have the approval of two-thirds ($2/3$) of the enrolled membership of the association. Voting thereon shall be as provided for special elections, under Article IV, Section 3 of the By-Laws.

Section 2: Resolutions so adopted by the association shall be submitted to the general management or officers of the Company by the Governing Board of the association, in accordance with agreements to be executed between the association and the Company, as provided in the constitution.

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

Article IV

Nomination of Officers and Elections

Nomination of Officers

Section 1: The nominating Committee shall present a slate at the annual meeting of the association for the officers and Labor Relations Committee, provided for under Article IV of the constitution.

Any member of the association may make additional nominations from the floor.

Regular Election

Section 2: Balloting for Labor Relations Committeemen: The members shall vote for the three members of the Labor Relations Committee and the one receiving the highest vote shall be the chairman of this Committee, and the members shall be subject to his call.

Election shall be by secret ballot deposited personally by the members in the ballot boxes provided therefor, or by secret ballot mailed or sent by absent members to the secretary of the association prior to the election and deposited in the ballot box at the time of the election.

At the annual meeting, a chairman and two tellers shall be appointed by the presiding officer to receive and authenticate the ballots.

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

After the closing of the ballot boxes, they shall tally the ballots so cast and announce the results to the presiding officer at the annual meeting, who thereupon shall declare the member receiving the highest number of votes cast elected to the respective offices. The ballots so cast shall be retained by the tellers for thirty (30) days after the date of the annual meeting.

Special Elections

Section 3: Recall or other special elections shall be conducted as provided in Section 2, Article 4 of these By-Laws.

Article V

Dues

Section 1: The dues for each month or fraction thereof shall not be less than Fifty Cents (50).

Section 2: Such dues shall be due and payable monthly in advance on the first Tuesday of each month, and until such payment of dues is made, as aforesaid, no certificate of membership shall be issued.

Section 3: In the event that any member of the association shall be in arrears in the payment of dues for a period of six (6) months, he shall automatically cease to be a member of this association.

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

Section 4: From the dues collected by the association, the necessary expenses of the association shall first be paid and the remainder of the dues so collected, shall be retained by the treasurer to be used in paying for expenses incurred for the social and recreational activities among its members.

Section 5: Each member shall pay an initiation fee of Two Dollars (\$2.00) at the time he becomes a member of the association.

Article VI

Amendments

Section 1: Any proposition to amend the By-Laws of this association shall be submitted in writing to the secretary at or prior to any regular or special meeting of the association. The secretary shall read the proposition at the meeting, and it may be discussed but not voted upon. At the next meeting of the association the proposition shall be voted upon.

Should a two-thirds ($2/3$) majority of the enrolled membership favor the proposition to amend, the proposed amendment shall thereupon be submitted to the Governing Board of this association for approval.

Section 2: Should any amendment to the By-Laws, adopted by the members of the associa-

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

tion according to the procedure of Section 1 hereof, receive the approval of a majority of the members of the Governing Board of the Association, the Governing Board shall declare the By-Laws of the association to be amended accordingly.

Article VII

Rules of Order

Section 1: The rules of parliamentary procedure as laid down in "Roberts' Rules of Order" shall govern all meetings of the Association.

We, the undersigned members of J. G. Boswell Company Employees' Association of Corcoran, and Tipton, California, hereby adopt the foregoing Constitution and By-Laws as the Constitution and By-Laws of said Association:

.....
.....
.....
.....

I, E. M. Roberson, the duly elected, qualified and acting Secretary of J. G. Boswell Company Employees' Association of Corcoran and Tipton, hereby certify that the foregoing is a true, full and correct copy of the Constitution and By-Laws of said Association duly adopted on the 28th day of November, 1938, and that the written assent attached thereto is full, true and correct copy of the written

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)
assent of all the members of said Association at said time of the adoption of said Constitution and said By-Laws.

In Witness Whereof, I have hereunto set my hand this 29th day of November, 1938.

E. M. ROBERSON

Secretary of said Association

We, the undersigned, hereby join said Association, and agree to all of the provisions contained in said Constitution and By-Laws.

- | | |
|---------------------|-------------------|
| | |
| | |
| | |
| | |
| E. M. Roberson | Sherman L. Todd |
| Oscar W. Busby | Arch Gardner |
| J. A. Derichsweiler | Bob Howes |
| Vernon Rood | Clark Mitchell |
| Sam T. Robinson | John H. Carpenter |
| J. W. Tisdale | Wm. Haynes |
| John Duncan | Orcar White |
| A. R. Derichsweiler | C. C. Hastin |
| W. D. Robinson | Tom Donahue |
| E. C. Ely | Guy Pool |
| Basil Winslow | H. Liggett |
| Clyde Sitton | O. H. Thompson |
| Paul Morris | T. E. Lowry |
| Jack Heywood | Bruce Clark |

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

John Winslow	Sam Brown
Charlie J. Felder	W. F. Willoughby
Herman Langford	Fred Matthew
Walter Derichsweiler	Bernadine Sickles
Jack Owings	Irma G. Clow
L. G. Robinson	H. G. McKeever
F. E. Ely	R. B. Lloyd
Stant Salsbury	Joe Hammond
W. L. Connally	D. B. Burdine
J. W. Hubbard	W. C. Nichols
Arthur Bowron	Hugh Greer
K. V. Hammond	R. E. White
H. R. Murphy	R. H. Fallin
Walter W. Abbott	Lloyd W. Wilson
A. L. Hood	Ygnacio Galvan
Robert C. Springer	Andrew Galvan
Tom B. Hammond	Brooks Fiske
S. F. Brenes	June Graser
L. M. Carr	W. T. Tilman
Don Mummert	Raymond Archer
William F. Parrish	J. T. Mize
Joseph T. Melton	Guy R. Clow
Joe Briley	Alvin A. May
Wm. D. Blankenship	Fred S. Armenta

MEMBERSHIP APPLICATION

J. G. Boswell Company Employees' Association
of Corcoran and Tipton
Corcoran, California

The undersigned hereby applies for membership

(Testimony of Samuel Brenes.)

BOARD'S EXHIBIT No. 18—(Continued)

in J. G. Boswell Company Employees' Association of Corcoran and Tipton, and agrees, that if accepted as a member, to sign the membership roster and to abide by all of the provisions of the Constitution and By-Laws of said Association.

Dated:, 1938.

.....

Applicant

.....

.....

Address

Approved:

.....

.....

.....

Membership Committee

[Endorsed]: Filed 6-6-39.



Q. (By Mr. Mouritsen) Now, Mr. Brenes, do you also have the financial records of the J. G. Boswell Company Employees' Association of Corcoran and Tipton? A. Yes, sir.

Q. May I see those, please?

A. Here are the original records. I also have a financial statement.

(The documents referred to were passed to Mr. Mouritsen who examined them.)

(Testimony of Samuel Brenes.)

Q. And the financial records were kept by yourself, is that right? A. Yes.

Q. And are they—are you still treasurer of that organization? A. Yes, sir.

Q. And have been since its organization, is that correct? A. That is right.

Q. And this green book that you have handed contains all of the financial records of that organization, is that correct? A. Yes, sir.

Q. Now, Mr. Brenes, I note that the names Tom and Joe Hammond appear upon the pages following page 10 of Board's Exhibit 18, which is the constitution of the J. G. Boswell Employees' Association of Corcoran and Tipton. Are they members of that organization? [1913]

A. Yes, sir.

Q. And have they been members from the beginning of that organization? A. Yes, sir.

Q. And I note that Bill Robinson's name appears on Board's Exhibit 18 as one of the signers. Is he also a member of that organization?

A. He is.

Q. And has he been from the beginning of that organization? A. Yes, sir.

Q. Now, I will return to you, Mr. Brenes the financial record that you gave me.

Now, what further—do you have the subpoena that was directed, I believe to either Mr. McKeever or Mr. Roberson? A. Yes, sir.

Q. Could I see that?

(Testimony of Samuel Brenes.)

Mr. Clark: Of course, the record will show, Mr. Examiner, that counsel for the Board has examined the books containing all of the financial records of this organization, I take it?

Mr. Mouritsen: Surely, and that I have returned it.

Mr. Clark: I want to make sure that it will, and you are returning it without offering it in evidence.

Mr. Mouritsen: I don't want to take his original records.

Mr. Clark: Is that the only reason?

Q. (By Mr. Mouritsen) Now, Mr. Brenes, under the subpoena [1914] you were requested to produce the minutes of membership meetings and meetings of the board of directors of any and all meetings held by the J. G. Boswell Company Employees' Association of Corcoran and Tipton. Do you have such minutes and such—the membership meeting and meetings of the board of directors? A. Yes, sir.

Q. Could I see those, please?

(The document referred to was passed to Mr. Mouritsen, who examined same.)

Trial Examiner Lindsay: Will you step down a minute.

(The witness leaves the witness stand.)

Trial Examiner Lindsay: You gentlemen come up here just a moment.

(Testimony of Samuel Brenes.)

(Conference between counsel and the Trial Examiner at the bench.)

Trial Examiner Lindsay: All right, Mr. Witness.

(The witness resumed the stand.)

Trial Examiner Lindsay: You are an officer of the independent union?

The Witness: Yes, sir.

Trial Examiner Lindsay: Do you desire counsel?

The Witness: No, sir.

Trial Examiner Lindsay: You do not?

The Witness: No. [1915]

Trial Examiner Lindsay: All right.

Mr. Clark: Did that answer get in, Mr. Lindsay?

Trial Examiner Lindsay: Did you get the answer?

The Reporter: Yes.

Mr. Clark: The answer was no?

The Witness: Yes.

Q. (By Mr. Mouritsen) Now, Mr. Brenes, I will hand you the book containing the membership or the minutes of membership meetings or other meetings, and ask you if you can find therein the minutes for the first meeting held by the membership of the organization?

A. (Examining document) They start there.

(Testimony of Samuel Brenes.)

(The document referred to was passed to Mr. Mouritsen.)

Q. (By Mr. Mouritsen) Prior to November 28th, 1938, were any meetings of the employees held that you attended, for the purpose of organizing an independent union at the plant?

Mr. Clark: Meetings held at the plant? Is that the burden of the question?

Trial Examiner Lindsay: Read the question, please.

(The question referred to was read by the reporter, as set forth above.)

Mr. Clark: I object to the question on the ground it is indefinite and ambiguous. I take it that it calls for whether or not the meetings were held at the plant. That is what I wanted to find out. If that is the purpose, there is [1916] no objection.

Trial Examiner Lindsay: I think the question is plain.

You understand by "the plant" he means the Boswell plant?

Is that right, Mr. Attorney?

Mr. Mouritsen: That is correct.

The Witness: Yes, sir, there was one meeting.

Q. (By Mr. Mouritsen) And you were in attendance at that meeting, is that correct?

A. Yes. I dropped in for a few minutes.

(Testimony of Samuel Brenes.)

Q. Where was that meeting held?

A. That was held at the office of the Boswell Company.

Q. And can you fix the date for us?

A. Not exactly. It was several weeks before that meeting.

Q. You recall the day when a number of employees were requested to leave the plant of the Company?

A. I wasn't present when anyone was requested to leave.

Q. No. You mean you weren't present at any gathering where the employees were requested to leave?

A. That is right.

Q. But you were present at the plant on that day?

A. Yes.

Q. And you have that day in mind, is that correct?

A. Yes.

Q. Now, was this meeting of the employees held in the evening of that same day? [1917]

A. I can't say definitely.

Q. Well, were you present during the whole meeting?

A. No, I wasn't.

Q. Will you tell us whom you observed as being present at that first meeting that was held at the plant?

A. You mean you want a list of all of those I saw?

Q. As many as you can recall there.

Mr. Clark: I wonder if he has any record of it?

(Testimony of Samuel Brenes.)

That would be better evidence if he has. Will you ask him that?

Q. (By Mr. Mouritsen) Do you have any records of people present at the first meeting?

A. Yes, sir. The signatures appear right here. There are the minutes of the first meeting.

(The document referred to was passed to Mr. Mouritsen who examined the same.)

Q. (By Mr. Mouritsen) Now—

Mr. Clark (Interrupting): May the record show, Mr. Examiner, that first the witness has indicated to counsel the minutes of the meeting under discussion, and apparently a list of names of the persons present at that meeting, and that counsel has examined them?

Q. (By Mr. Mouritsen) Now, Mr. Brenes, I show you a list containing a number of names written in long hand, and ask you if that is the list to which you refer as having been made that night of the meeting at the plant? [1918]

A. (Examining document) Yes.

Mr. Mouritsen: Could this list be marked for identification, composed of two sheets of ruled paper having a number of green and brown lines on it?

Trial Examiner Lindsay: Yes, it may be marked.

(Thereupon, the document above referred to was marked as Board's Exhibit 19 for identification.)

(Testimony of Samuel Brenes.)

(The document above referred to was passed to Mr. Clark.)

Mr. Mouritsen: Mr. Examiner, I think the record should indicate that Mr. Clark is examining the minutes of the first meeting, rather than the list of the names.

Mr. Clark: You examined the minutes of the first meeting, so now I am. Isn't that fair?

Very well.

Mr. Mouritsen: At this time, Mr. Examiner, I will offer as Board's Exhibit 19 the document that has been marked Board's Exhibit 19 for identification, which is composed of two sheets as I earlier described it.

Mr. Clark: To which we object, Mr. Examiner, on the ground it is incompetent, irrelevant and immaterial, and hearsay as to the Respondents.

Trial Examiner Lindsay: Board's Exhibit 19 may be received.

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit 19.) [1919]

Q. (By Mr. Mouritsen) What further was done at that meeting other than signing the—Board's Exhibit 19?

A. I didn't attend the whole meeting, but while I was there they just discussed the possibility of organizing an employees union of their own.

Q. Now, after that first meeting, did you attend

(Testimony of Samuel Brenes.)

any further meetings of the employees' organization? A. Yes, sir. [1920]

Q. Do you recall—strike that.

Would November 28, 1938, be the date of the next meeting that you attended?

A. Yes, sir.

Q. And at that next meeting Board's Exhibit 18 was adopted, is that correct?

A. Yes, sir.

Q. And would you say the other—a number of other employees of the J. G. Boswell Company signed Board's Exhibit 18 at that meeting?

A. Yes, sir.

Q. And at that next meeting officers were also elected, is that correct? A. Yes, sir.

Q. That is, when you became treasurer of the organization, is that correct? A. Yes, sir.

Mr. Clark: May it please the Examiner, if counsel is going to examine the witness from the minutes of the meeting of November 28th, then I will ask that he be required to offer the minutes in evidence.

Trial Examiner Lindsay: Board's Exhibit 18 is the one he is examining him on, and it is also in evidence.

Mr. Clark: No. He is examining the witness on the minutes of a further meeting, November 28th. He is standing there [1921] reading the minutes and asking the questions on it, and if he is going to do that, I simply ask that he be required

(Testimony of Samuel Brenes.)

to offer the minutes in evidence.

Let's have them be either fish or fowl. You see? Either in evidence or not?

Mr. Mouritsen: I have no intention of offering them in evidence. I don't want to take the minutes away from them when we can get the information in a much easier manner.

If the witness wants to examine the minutes as I examine him on them, that is all right.

Trial Examiner Lindsay: Let us hand it to him as you examine it.

Mr. Mouritsen: Yes.

Trial Examiner Lindsay: Let us get the record straight.

I have given the independent union the right to have counsel here if they wish; and this witness has said they do not want counsel.

Mr. Clark: May I make a statement, Mr. Lindsay?

Trial Examiner Lindsay: Well, I do not know if it is necessary.

Mr. Clark: I would like the record to show that my objection to it coming in here was being made in behalf of the respondents Boswell Company, Associated Farmers of Kings County, and the Corcoran Telephone Exchange, and the objections are that these minutes are incompetent and hearsay. [1922]

If they are going to go in in the face of those objections, I take it they should be offered in a

(Testimony of Samuel Brenes.)

proper fashion instead of counsel going through them and taking what he wants from them and asking those questions and leaving anything that hurts him unsaid.

Mr. Mouritsen: That is surely an uncalled for statement.

Mr. Clark: Let's show evidence of your good faith.

Trial Examiner Lindsay: Listen, I want this sort of thing stopped. I am getting tired of it.

Mr. Mouritsen: May I proceed, Mr. Examiner.

Trial Examiner Lindsay: Yes, you may proceed.

Mr. Clark: I think there is an objection unruled on.

Trial Examiner Lindsay: Read the last question again.

(The record referred to was read by the reporter, as set forth above.)

Trial Examiner Lindsay: He may refresh his memory from the minutes. Hand the book to him and let him read the minutes.

Mr. Mouritsen: Let the record show I am handing the minute book to Mr. Brenes.

Q. I believe you stated that you were elected treasurer at that meeting of November 28, 1938, is that correct? A. Yes, sir.

Q. Now, Mr. Hubbard I believe was elected president, is that correct? A. Yes. [1923]

Q. Do you know what type of work Mr. Hubbard does for the company?

(Testimony of Samuel Brenes.)

A. He is—I don't know what his official title is, but he is a farm advisor sort of, I think, is what you call him.

Q. And do you know whether or not Mr. Hubbard does any work at the plant?

A. You mean any office work?

Q. Any manual work in the plant itself?

A. No.

Q. He does, however, visit the office occasionally in the morning, is that correct?

A. Yes, sir.

Q. Now, I believe that Oscar W. Busby was elected vice-president of the association, is that correct?

A. That is right.

Q. And do you know what work Mr. Oscar Busby does at the plant?

A. He works in the shop, the machine shop.

Q. And is it or is it not true that he has a number of other men to whom he gives orders and directions regarding their work?

A. I wouldn't know for sure. I don't work out there.

Q. Well, as a matter of fact, Mr. Busby is paid more than the other machinists at the plant, is he not?

Mr. Clark: Objected to on the ground it is leading and [1924] suggestive and improper re-direct examination.

Trial Examiner Lindsay: He may answer.

The Witness: I don't know Mr. Busby's salary.

(Testimony of Samuel Brenes.)

Q. (By Mr. Mouritsen) Do you know who some of the other men are who work in the machine shop at the plant? A. Yes, sir.

Q. Will you name them, please?

A. Clyde Sitton, Bill Robinson, R. C. Springer, L. G. Robinson. I believe that is all in the machine shop. [1925]

Q. And do you know whether—strike that.

Did you keep any of the payroll records of the Company?

A. I make out the payroll weekly.

Q. As a matter of fact, Mr. Busbee isn't paid by the hour, is he?

A. I don't think he is. He is paid from Los Angeles.

Q. Well, he is paid on a monthly or a semi-monthly basis, isn't he? A. I believe so.

Mr. Mouritsen: There are no numbers on the pages of Board's Exhibit 3, Mr. Examiner. However, I desire to direct the Examiner's attention to the page in Board's Exhibit 3 relative to O. W. Busbee.

(The document referred to was passed to Mr. Clark.)

Q. (By Mr. Mouritsen) Now, at that meeting of November 28th, 1938, Mr. Roberson was elected secretary, isn't that correct? A. Yes, sir.

Q. And is he sometimes known as "Yankee" Roberson? A. Yes, sir.

Q. Now, are you acquainted with the type of

(Testimony of Samuel Brenes.)

work that Yankee Roberson does at the plant?

A. Yes, sir.

Q. What type of work does he do?

A. I think it would be classed as clerical.

Mr. Clark: Mr. Mouritsen, may it be stipulated, with the [1926] Examiner's consent, that the person referred to as Yankee Robinson throughout the record thus far is the gentleman you have just named, to-wit, Yankee Roberson?

Mr. Mouritsen: That is my understanding, and I will so stipulate. In other words, it is spelled R-o-b-e-r-s-o-n.

Mr. Clark: That is true.

Q. (By Mr. Mouritsen) And he does clerical work, I believe you stated? A. Yes.

Q. Do you know whether Mr. Roberson is paid by the hour?

A. I don't think so. I think he is paid semi-monthly.

Q. Mr. Roberson, is he paid from Los Angeles or from Corcoran? A. From Los Angeles.

Q. And I believe you stated upon a monthly or semi-monthly basis; is that correct?

A. I believe so.

Q. And what type of work do you do at the plant, Mr. Brenes?

A. I do clerical work, bookkeeping.

Q. And of what does that consist other than making up the payroll, as I believe you stated?

A. Well, I have a number of duties. I handle

(Testimony of Samuel Brenes.)

the cash, make out checks, correspond with our Los Angeles office in regard to bookkeeping entries; make journal entries, adjusting various accounts.

Q. And are you paid upon an hourly basis? [1927] A. No, sir.

Q. From where are you paid, from Los Angeles or from Corcoran?

A. From Los Angeles.

Q. And upon what basis?

A. Semi-monthly.

Q. And what do you receive per month?

Mr. Clark: I object to that as incompetent, irrelevant and immaterial.

Mr. Mouritsen: Well, I think it is very material, Mr. Examiner, in view of the fact it is one of the elements that indicate where this man's interests lie, whether he is in fact an employee, or whether he is in fact connected with the management.

Trial Examiner Lindsay: He may answer.

Mr. Clark: Mr. Examiner, there is no probative value, I submit, in that at all. He has testified that he is employed, and that is all there is to it. I was only objecting to save him from telling about his salary if he has any objection to it.

Trial Examiner Lindsay: He may answer. You may have an exception.

The Witness: Do I have to tell him, Judge?

Trial Examiner Lindsay: Yes. You are under oath.

(Testimony of Samuel Brenes.)

The Witness: I get \$190.00 a month.

Q. (By Mr. Mouritsen) Now, at that meeting, W. Willoughby [1928] was elected to the Labor Relations Committee, is that correct?

A. Yes, sir.

Q. Now, what work does Mr. Willoughby do at the plant?

A. He is a shop keeper. He has charge of the stores and materials, issuance and delivery thereof.

Q. And do you know whether he is paid from Los Angeles or from Corcoran?

A. I believe he is paid from Los Angeles.

Q. Do you know whether he is paid upon a monthly or a semi-monthly basis?

A. Yes, sir, he is.

Q. He is.

Mr. Clark: Which is he? May I have the question read, if you please?

Trial Examiner Lindsay: Yes.

(The record referred to was read by the reporter, as set forth above.)

Mr. Clark: I submit the answer is not responsive.

Trial Examiner Lindsay: Will you explain your answer? Is he paid by the month or semi-monthly?

The Witness: He is paid semi-monthly.

Trial Examiner Lindsay: Is there any difference between semi-monthly payments and monthly payments as to the amount of salary?

The Witness: Not that I know of. [1929]

(Testimony of Samuel Brenes.)

Mr. Clark: I submit that it is self-evident, Mr. Examiner.

The Witness: Not that I know of.

He receives a monthly wage, and receives his check twice a month.

Trial Examiner Lindsay: The wages are based on a monthly basis, is that not right?

The Witness: Yes, sir.

Trial Examiner Lindsay: The only difference is the check is paid twice a month, is that right?

The Witness: That is right.

Trial Examiner Lindsay: All right.

Mr. Mouritsen: Now, Mr. Examiner, as I stated before, there are no page numbers in Board's 3, but I desire to direct the Examiner's attention to the page in Board's Exhibit 3 which bears the name "W. F. Willoughby."

Trial Examiner Lindsay: How is that spelled? [1930]

Mr. Mouritsen: W-i-l-l-o-u-g-h-b-y.

Q. And I believe Mr. McKeever was elected a member of the Labor Relations Committee at that meeting of November 28, 1938, was he not?

A. Yes, sir.

Q. And what work does Mr. McKeever do at the plant?

A. Experimental work in the raising of crops.

Q. Is he known as an agronomist?

A. I guess that is what you call him.

Q. And do you know whether he is paid on the hourly rate?

(Testimony of Samuel Brenes.)

A. I believe he is paid monthly, too.

Mr. Mouritsen: I also direct the Examiner's attention to Board's 3, on the page bearing the name "McKeever."

Trial Examiner Lindsay: What is the first name, please?

The Witness: H. G. are his initials.

Trial Examiner Lindsay: How is that spelled?

The Witness: M-c-K-e-e-v-e-r.

Mr. Mouritsen: And in Board's 3 it is also "H. G."

Q. Now, other than the men that we have already named, that is, Hubbard, Busby, Roberson, Brenes, Willoughby, Loyd and McKeever, are there any other officers of the independent union?

A. These are the officers first elected. Since then we have had another election.

Q. And—— [1931]

A. (Interrupting): Some of these men are no longer officers.

Q. Well, when were these other officers elected, do you know?

A. At our regular annual meeting that was held on April 5th of this year.

Q. And do you have minutes of that meeting?

A. Yes, sir.

Q. Will you indicate where they are?

(The document referred to was passed to Mr. Mouritsen.)

Q. (By Mr. Mouritsen) Now, at the subsequent

(Testimony of Samuel Brenes.)

election of officers which was held on or about April 5, 1939, I believe Bill Willoughby was elected president, is that correct? A. Yes, sir.

Q. And we have already discussed Mr. Willoughby's work at the plant, is that correct?

A. Yes, sir.

Q. Now, I believe Bill Nichols was elected vice-president, is that correct? A. That is right.

Q. What type of work does Bill Nichols do at the plant? A. He is a carpenter.

Q. And do you know whether or not he is paid an hourly or a monthly rate?

A. He is paid at the hourly rate.

Q. He is paid in Corcoran, is that correct? [1932] A. Yes, sir.

Q. That is—as a matter of fact, the great majority or, I will say, practically all of the employees at the plant are paid at an hourly rate, isn't that correct? A. That is right.

Q. That is, all of the employees who are engaged in physical work at the plant are paid the hourly rate, is that correct?

Mr. Clark: I object to that upon the ground it is ambiguous and vague as to physical work. I suppose that physical work involved in the keeping of books or office work is just as responsive to that description as digging with a shovel.

Trial Examiner Lindsay: Do you understand the question, Mr. Witness, when he uses the term "physical"?

(Testimony of Samuel Brenes.)

The Witness: Roughly I do, yes. I think I know what he means.

Trial Examiner Lindsay: What does he mean?

The Witness: Men working out in the plant, ordinarily considered labor.

Trial Examiner Lindsay: All right. Proceed.

Mr. Mouritsen: I think the witness understood it better than Mr. Clark.

Mr. Clark: That might be true.

Q. (By Mr. Mouritsen) Mr. McKeever was elected secretary on or about April 5, 1939, is that correct? [1933] A. That is right.

Q. Then you were elected treasurer, is that correct? A. Yes, sir.

Q. Now, on the Labor Relations Committee, William Overstreet was elected, is that correct?

A. Yes, sir.

Q. And what work does he do at the plant?

A. He is from our Tipton plant although he comes to Corcoran during the summer time, during the slack season. Over at Tipton he works in the gin.

Q. Do you know what type of work Mr. Overstreet does over at Tipton?

A. Not exactly. I think he works in the gin there.

Q. Well—strike that.

Are the Tipton employees paid through the Corcoran office? A. No, sir.

Q. How are they paid, if you know?

A. I believe they are paid in Tipton.

(Testimony of Samuel Brenes.)

Q. You don't have anything to do with making out that payroll, is that correct? A. No, sir.

Q. I believe Bruce Clark was also elected on the Labor Relations Committee, is that correct?

A. Yes, sir. [1934]

Q. What type of work does Bruce Clark do, if you know?

A. I believe he is an electrician.

Q. And at the Corcoran plant of the company?

A. Yes, sir.

Q. Do you know how he is paid, whether by an hourly rate or on a monthly basis?

A. An hourly rate.

Q. And Sam Robinson was also elected on the Labor Relations Committee, is that correct?

A. Yes, sir.

Q. What type of work does Sam Robinson do?

A. During the ginning season I believe he is a ginner; during the slack season he does miscellaneous work around the plant, painting and so forth.

Q. Do you know how or upon what basis Mr. Sam Robinson is paid?

A. He is paid on an hourly basis.

Q. Now, Mr. Joe Hammond and Tom Hammond, are they paid from Corcoran or from the Los Angeles office?

A. They are paid from Los Angeles.

Q. They—do you have anything to do with the keeping of the Social Security Records of the com-

(Testimony of Samuel Brenes.)

pany that have been introduced in evidence as Board's Exhibit 3? A. No.

Q. Now I will ask you if R. B. Loyd is a member of the Em- [1935] ployees' Association.

A. He is.

Q. And is he also known as "Rube" Loyd?

A. Yes, sir.

Q. Do you know whether or not he has ever held any office in the Employees' Association?

A. He was a member of the Labor Relations Committee. [1936]

Q. Do you know whether or not J. I. Mize—M-i-z-e—is a member of the Employees' Association? A. Yes, sir.

Q. How do you pronounce that? A. Mize.

Q. Has he ever held any office in the Employees' Association to your knowledge?

A. No, he hasn't except as a committee member.

Q. Other than the Labor Relations Committee, has the Employees' Association had any other committees? A. Yes, sir.

Q. What other committees have they had in the past?

A. The Membership Committee, the Social Committee, Nominating Committee. I believe there is one more, Finance Committee.

Q. Has the J. G. Boswell Company Employees' Association of Corcoran and Tipton ever obtained any working agreement with the Company relative to working conditions or hours of work, or wages, or conditions of work? A. No, sir.

(Testimony of Samuel Brenes.)

Q. Have they ever obtained anything in writing or any document purporting to govern the wages to be paid to the employees? A. No, sir.

Q. Have they—hasn't the Employees' Association ever obtained anything in writing or what purports to be an agreement [1937] relative to wages, or other conditions of work? A. No, sir.

Q. Do you know whether or not any meetings have been held between representatives of the Employees' Association and representatives of the Company for the purpose of discussing wages or working conditions, or hours of work?

A. Not to my knowledge.

Q. And no such report has ever been made at any meeting that you have attended of the Employees' Association? A. No, sir.

Q. Have you—have any committees ever been authorized to go into such matters at any meetings of the Employees' that you have attended?

A. No, sir.

Q. Now, directing your attention again to the first meeting of the employees held on or about November 18th, 1938, at which an Independent Union was discussed, I will ask you if you saw at that time Mr. Gordon Hammond present in the plant? A. (Pause.)

Q. Understand, not in the meeting, but in the plant elsewhere?

A. I do not remember that I did.

Q. On that evening, did you see Mr. Louis T.

(Testimony of Samuel Brenes.)

Robinson present in the plant, but not at the meeting?
A. No, sir. [1938]

Q. Now, Mr. Brenes, I believe—strike that.

Was the payment of the attorney for drafting up the constitution and by-laws ever authorized at any meeting of the Employees' Association?

A. I don't believe there was any formal authorization except that the treasurer and the president are authorized to make disbursements for the Association.

Q. Well, will you look through the minute book that you have with you and see if you can find in the minutes of any meeting any authorization for the payment of the attorney's fees for drafting the constitution and by-laws that are Board's Exhibit 18?

Mr. Clark: I will object to that on the ground it is incompetent, irrelevant and immaterial; a matter like that rests within the implied powers of the officers of any organization to pay the current bills.

Trial Examiner Lindsay: He may answer.

The Witness: At a meeting of the Governing Board held on December 7th, there appears a motion made by Mr. McKeever and seconded by Mr. Busbee "to deposit money of the Association in the First National Bank of Corcoran, and to authorize money by checks signed by the treasurer and counter-signed by the president or vice-president." The motion was unanimously carried. [1939]

(Testimony of Samuel Brenes.)

Q. (By Mr. Mouritsen) But there was never any authorization other than the one that you have indicated to make the payment to the attorney for drafting Board's Exhibit 18, is that correct?

A. No, sir.

Mr. Clark: The same objection, may it please your Honor—or, I move to strike the answer on that ground, and take the ruling.

Trial Examiner Lindsay: Motion denied.

Q. (By Mr. Mouritsen) Now, do you recall, Mr. Brenes, when payment was made to the attorney for his services in connection with the drafting of the constitution and by-laws?

A. I don't remember the exact date. It was several weeks after that first meeting that was held.

Q. And payment was made by yourself, is that correct? A. Yes, sir.

Q. Was payment made in a lump sum or was it made in several installments?

A. It was made in one check.

Q. And where were the moneys of the independent union on deposit?

A. In the bank here in Corcoran.

Mr. Mouritsen: You may inquire.

Mr. Clark: May it please your Honor, may I suggest a recess at this time? It is a quarter after three, and I would [1940] like time to look through some of these documents which Mr. Brenes has.

Trial Examiner Lindsay: I have seven minutes after 3:00. Am I wrong?

(Testimony of Samuel Brenes.)

Mr. Clark: I think you are wrong. I think this is right.

(At this point a short recess was taken, after which the proceeding was resumed as follows:)

Trial Examiner Lindsay: Hearing called to order.

Mr. Clark: Shall I proceed, Mr. Lindsay?

Trial Examiner Lindsay: Yes.

Cross Examination

Q. (By Mr. Clark) Now, Mr. Brenes, am I correct in stating that in response to the request made upon you by counsel for the Board you have brought to court here this afternoon, and have produced for their inspection, the following documents: First, a complete set of the minutes of all the meetings held by the Employees' Association?

A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. Secondly, a true copy of the constitution and by-laws of the Employees' Association, together with all amendments up to the present time and a list of members as of November 28, 1938?

A. Yes, sir.

Q. And that is the document which has been marked Board's [1941] Exhibit 18, is that correct?

A. Yes, sir.

Trial Examiner Lindsay: That is been received.

Mr. Clark: Received, I mean. Yes.

(Testimony of Samuel Brenes.)

Q. Next the complete financial records of the Employees' Association, together with a financial statement as of May 18, 1939, is that true?

A. Yes, sir.

Q. And am I correct in stating that you have turned all these documents over to the gentlemen representing the Board for their examination?

A. Yes, sir.

Q. Now, first off, let me ask you whether the financial records which you have submitted to counsel for the Board constitute a complete record of all the finances of this Employees' Association.

A. They do.

Q. And will you please tell us from where the finances of your Association are derived?

A. From the members.

Q. And at what rate, please?

A. The initiation fees are \$2.00 a month and the membership dues are 50 cents a month.

Q. All right.

Will you state, Mr. Brenes, whether or not at any time, or [1942] in any way, shape or form, the J. G. Boswell Company has made any financial contribution whatsoever to your Association.

A. No, sir.

Q. Now, directing your attention to the minute book from which you testified in part, in response to Mr. Mouritsen's questions, I will ask you to tell us how many members, that is, just the number of members which appear—may I withdraw that, Mr. Examiner?

(Testimony of Samuel Brenes.)

Directing your attention to the minute book, Mr. Brenes, concerning which you were examined in part by Mr. Mouritsen, I will ask you to tell us how many employees of the J. G. Boswell Company attended the organization meeting of November 28, 1938, at this hall. Will you please count them?

A. (Examining document) 77.

Q. All right.

And am I correct in stating that among those persons who so attended this organization meeting on November 28, 1938, were the following persons, among others: Eugene Clark Ely?

A. Yes, sir.

Q. Joe Briley? A. Yes, sir.

Q. Ygnacio Galvan? A. Yes.

Q. Andrew Galvan? A. Yes, sir. [1943]

Q. Now, do you find in your minute book, Mr. Brenes, any list of such further members—withdraw that.

Do you find in your minute book any persons who have become members of the Employees' Association since November 28, 1938?

A. Yes. [1944]

Q. Will you tell us how many such persons there are? A. Twenty-three.

Q. And can you tell us as of what date those twenty-three people became members or were members of the Employees' Association?

A. Since November 28th.

(Testimony of Samuel Brenes.)

Q. Well, just approximately can you fix it on this side of November 28th, or backwards from today? A. About May 1st, I should say.

Q. About May 1st of this year; is that right?

A. Yes.

Q. Will you please tell me whether I am correct in stating that the following persons are included in this last list which you have referred to and became members of the Employees' Association since November 28th of last year?

M. Escobado? A. Yes.

Q. Lawrence Galvan? A. Yes.

Q. P. Galvan? A. Yes, sir.

Q. Among others, is that right?

A. That is right.

Q. Did you tell me how many persons?

Trial Examiner Lindsay: Twenty-three. [1945]

Mr. Clark: Twenty-three. Very well.

Q. I next direct your attention, Mr. Brenes, to what purports to be a letter appearing in the minute book which you have produced at this hearing, which letter is dated November 29th, 1938, addressed J. G. Boswell Company, 354 South Spring Street, Los Angeles, and signed J. G. Boswell Company Employees' Association, by blank, president, and blank, secretary, under which is the reference, "Copy to J. G. Boswell Company, Corcoran, California."

Am I correct in stating that the letter to which I refer, or rather, a copy of it, is set forth in the minutes of a meeting of the Governing Board of

(Testimony of Samuel Brenes.)

the Employees' Association on November 29th, 1938? A. Yes, sir.

Q. Do you know of your own knowledge whether or not the original of the letter referred to was, in fact, mailed to the J. G. Boswell Company in Los Angeles? A. Yes, sir.

Q. Very well.

I would like to read that part of the minutes into the record, Mr. Examiner.

“Corcoran, California, November 29th, 1938.

“J. G. Boswell Company, 354 South Spring Street, Los Angeles, California.”

Mr. Mouritsen: May I object to the reading of this on [1946] the ground it is a self-serving statement. I have no objection other than that.

Mr. Clark: Submit it.

Trial Examiner Lindsay: You may read it.

Mr. Clark: “Gentlemen: Please take notice that at 7:00 o'clock P. M.”—or “7:00 P. M., November 28th, 1938, at the American Legion Hall in Corcoran, California, seventy-eight employees of the J. G. Boswell Company at Corcoran organized themselves into an Employees' Association under the National Labor Relations Act and unanimously adopted a constitution and by-laws by which they are to be governed.

“This constitutes about ninety-five per cent of the Corcoran employees.

“The following officers were elected, and constitute a Governing Board of the Association: Presi-

(Testimony of Samuel Brenes.)

dent, J. W. Hubbard; Vice-president, O. B. Busbee; Secretary, E. M. Roberson; Treasurer, S. F. Brenes; Labor Relations Board, R. B. Lloyd, W. F. Willoughby, H. G. McKeever. Very truly yours, J. G. Boswell Employees' Association. **Blank, president, and blank, secretary.**"

Q. Now, I will further direct your attention, Mr. Brenes, to what purports to be the minutes of a meeting of December 7th, 1938, and I will ask you whether in addition to the resolution, or rather the motion which you read into the record in response to a question put to you by Mr. Mouritsen [1947] with respect to authorizing the expenditure of funds, the following motion was also made, seconded and carried:

"A motion was made by Mr. McKeever and seconded by Mr. Lloyd that the Secretary and/or Treasurer be authorized to make purchases for the Association subject to the approval of the Executive Committee. The motion was unanimously carried." A. Yes.

Q. Your answer is Yes? A. Yes.

Q. Is it pursuant to that motion that the secretary or treasurer of the corporation has since that date expended funds of the organization?

A. Yes, sir. [1948]

Mr. Clark: And may that question be amended, Mr. Examiner, to eliminate the word "corporation" that I used and insert the word "organization." I think I said corporation inadvertently.

(Testimony of Samuel Brenes.)

Trial Examiner Lindsay: Is that what it is there?

Mr. Clark: It is "association" here.

Trial Examiner Lindsay: Use it as it is there.

Mr. Clark: That is what I want in there, but in my question I said "corporation" inadvertently.

Trial Examiner Lindsay: Off the record.

(Here followed discussion off the record.)

Trial Examiner Lindsay: On the record.

Mr. Clark: Shall I proceed?

Trial Examiner Lindsay: If you wish.

Mr. Clark: Very well.

Q. I will also direct your attention, Mr. Brenes, to the minutes of a special meeting of the governing board of J. G. Boswell Company Employees' Association of Corcoran and Tipton held on January 11, 1939, and I will ask you whether or not the copy of a letter dated January 11, 1939, addressed to the National Labor Relations Board, Twenty-First Region, 610 South Main Street, Los Angeles, California, and signed J. G. Boswell Company Employees' Association of Corcoran and Tipton, which appears or which is set out in these minutes, is a true copy of an original letter which was, in fact, sent to [1949] the National Labor Relations Board on January 11, 1939? A. It is.

Q. All right.

Now, do you know of your own knowledge that the original was sent? A. Yes, sir.

Q. All right.

(Testimony of Samuel Brenes.)

Mr. Mouritsen: May I ask a few questions on voir dire?

Mr. Clark: Surely.

Voir Dire Examination

Q. (By Mr. Mouritsen) This letter, the copy of which you have identified, did you ever see the original? A. Yes, sir.

Q. Did you sign the original?

A. I don't recall whether the whole board did or just the secretary.

Mr. Clark: May I demand the original from you if you have it? It was sent to your client, the National Labor Relations Board, Twenty-First Region.

Q. (By Mr. Mouritsen) Now, Mr. Brenes, did you ever compare the original letter with this letter that is contained in the minutes?

A. Not verbatim.

Q. You never made a comparison to see if it was an exact copy or not, is that correct? [1950]

A. It was read in the minutes from the letter.

Q. You didn't compare it, though, after that time, to see whether the reading was correct or not?

A. The letter was read and entered into the minutes. I imagine it was an exact copy of the letter.

Q. But you never made the comparison, is that correct? A. Yes.

Mr. Clark: At this time I will demand from counsel of the Board, if they have it in their possession, an original letter dated January 11, 1939,

(Testimony of Samuel Brenes.)

addressed to the National Labor Relations Board, Twenty-First Region, 610 South Main Street, Los Angeles, California, and signed J. G. Boswell Company Employees' Association of Corcoran and Tipton.

Mr. Mouritsen: I will object to any such letter on the ground that after all Mr. Clark has stated that his only objection to the introduction of this type of evidence was for the purpose of disproving any connection between the company and the Association; that all of his objections that he made were upon behalf of merely the Associated Farmers and the Telephone Exchange. I submit, Mr. Examiner, this is immaterial inasmuch as the material he seeks to adduce is not probative of any of those issues inasmuch as it is not concerning the connection between the employees' Association and the company or any of the other respondents that he desires or that he represents; and furthermore the witness on the stand has stated [1951] that he doesn't want Mr. Clark to represent him and that, therefore, Mr. Clark is doing a gratuitous service unwanted by the witness.

Mr. Clark: I am not purporting to represent this gentleman or the Employees' Association and I simply seek to get the letter referred to, which is one of January 11 of this year in on the issue, Mr. Examiner, or rather to show by the statement of this third party, this Employees' Association, to the Board, that the Boswell Company has no connection with it and nothing whatsoever to do with that

(Testimony of Samuel Brenes.)

organization so far as any domination of it is concerned or with respect to any of the other charges which are made against it in this proceeding, and I submit it is entirely relevant on that issue. I will renew my demand.

Mr. Mouritsen: I will object to the introduction of the record upon the ground it is merely a self-serving declaration.

Mr. Clark: It can't be self-serving, as it does not come from us.

Mr. Mouritsen: This is the difficulty: Mr. Clark does not represent the Employees' Association and he is attempting to get information that has no bearing upon any participation that he has in this case *in*.

Mr. Clark: All through this record the rankest sort of hearsay has been allowed in. [1952]

Trial Examiner Lindsay: On both sides.

Mr. Clark: I am just asking leave to put in another statement such as that which does not come from us.

Trial Examiner Lindsay: Just a moment.

Mr. Walsh: We will submit it. We will submit it to the Examiner for a ruling. I may state that we do not have the letter in our possession.

Trial Examiner Lindsay: Well, if Mr. Clark wishes to take that position, he may introduce the letter.

Mr. Walsh: May I suggest that Mr. Clark read it in because it is a part of the files and we would not like to take it out of the files.

(Testimony of Samuel Brenes.)

Mr. Clark: Thank you.

Trial Examiner Lindsay: In submitting that record, I am only ruling upon that one particular letter that is in the file.

Mr. Clark: I won't look at the rest of their file, Mr. Examiner. You need not be afraid of that. I will read this into the record, the letter that has just been produced by counsel for the Board.

